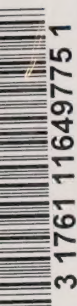


CA2φN  
Z1  
-66B21





CA24N  
Z1  
-66B21

Ontario Royal Commission regarding inter-tribal disputes

Hawson

v. 21

April 1967





Digitized by the Internet Archive  
in 2023 with funding from  
University of Toronto



67

**ROYAL COMMISSION**  
**INQUIRY INTO LABOUR DISPUTES**

3736

**HEARINGS HELD AT**

**TORONTO**

**VOL. NO.**

21

**DATE**

April 14, 1967

*Official Reporters*

**NETHERCUT & YOUNG LIMITED**  
48 YORK STREET  
TORONTO 1, ONTARIO  
TELEPHONE 363-3111



IN THE MATTER OF The Public  
Inquiries Act, R.S.O. 1960,  
Ch. 323

- and -

IN THE MATTER OF an Inquiry  
Into Labour Disputes

BEFORE:

The Honourable Ivan C. Rand,  
Commissioner, at the Toronto  
Professional Building, 123  
Edward Street, Toronto,  
Ontario, on Friday, April  
14th, 1967

E. Marshall Pollock

Council to the Commission

APPEARANCES:

Mr. Albert G. Hearn, )  
Int'l Vice-Pres. )

Mr. Hughes )

Mr. Harper )

Mr. Mitchell )

Mr. Borg )

Mr. Nicholls )

Building Service Employees'  
International Union

Nethercut & Young Limited, Official Reporters,  
48 York Street, Toronto 1, Ontario.



Toronto, Ontario,  
Friday, April 14, 1967.

1  
2 ---On commencing at ten o'clock a.m.

3  
4 MR. POLLOCK: Beginning with the Building  
5 Service Employees' International Union, Albert G. Hearn,  
6 International Vice-President. Mr. Hearn, I see with  
7 you Mr. Hughes, Mr. Harper, Mr. Mitchell, Mr. Borg and  
8 Mr. Nicholls. I presume that you are going to be  
9 the spokesman and these other people will have some  
10 contributions to make in the course of your  
11 presentation.

12 MR. HEARN: Yes, sir, and if there is  
13 an examination necessary they are here to answer.

14 MR. POLLOCK: Thank you. I can tell you  
15 that the Commissioner and I have read your submission  
16 with considerable interest and the manner of  
17 presentation is up to yourself. If you want to deal  
18 with the particular points in the summarization we  
19 can discuss them, I don't know whether reading the  
20 whole brief, it is a rather lengthy submission, would  
21 really serve much purpose. Perhaps you might be  
22 selective in your choice of material bearing in mind  
23 that we have both read this at considerable length.  
24 But I don't want to restrict your presentation in any  
25 way.

26 MR. HEARN: We intended reading the  
27 brief, but since it has been thoroughly read, we will  
28 try to be selective on that basis and perhaps deal  
29 with the brief in its general side. If we could turn  
30 to page 3 and having given you the organization that



1 is before you and its setup and a brief history of  
2 how we have proceeded over the last 22 and a half or  
3 23 years, we could then come directly to the question  
4 of the legislation we passed in 1965. In 1965, in  
5 April, the Act to provide for setting up by  
6 arbitration of labour disputes in hospitals was  
7 brought into the Ontario Legislature and passed on  
8 three quick readings as a result of a strike that had  
9 developed at Wellesley Hospital with the operating  
10 engineers. The historic Trenton Memorial Hospital  
11 situation which we have documented material on here  
12 this morning if the Commissioner wants it, and a number  
13 of other disputes that have arisen from time to time  
14 throughout the years. Now, we believe that when  
15 Bill 41, as it was commonly called, was introduced  
16 in the Legislature it was again one of those  
17 unfortunate pieces of legislation that was brought in  
18 after some study, but in the hour of crisis and it  
19 left a number of things to be desired. Two years of  
20 operation has pretty well taught us now what the areas  
21 of desirability are for amendment and it is in that  
22 area that we want and we have in fact in the brief, as  
23 you know from reading it, placed great emphasis on  
24 the necessary amendments to the Bill itself. Now, the  
25 one major obstacle in the Bill that gives us great  
26 concern is the fact that if arbitration is indeed to  
27 be imposed at all and we have no particular represen-  
28 tation pro or con on that question other than the  
29 observations to be made in the brief of amendment, then  
30 we say that it must be imposed in a manner that creates



1 fairness from all sides, and that if such legislation  
2 is in fact to be incorporated into the statutes of  
3 this province it should be legislation that will  
4 enable the parties to proceed (a) with organizational  
5 programs and (b) with the collective bargaining  
6 process resulting from the flow of organization and  
7 certification. Now, the first major question that  
8 arises in this Hospital Arbitration Act is the  
9 question of the definition of what is a hospital,  
10 and what is an employee. Now, we gave you some  
11 historical references on pages 7, 8 and 9 in this  
12 direction, and starting on page 10 we have quoted  
13 you the decision of the Chairman of the Labour  
14 Relations Board, Mr. J. Finkelman, in the matter  
15 of the Labour Relations Board File No. 11348-65-R.  
16 This was the Building Service Employees' International  
17 Union, Local 210 and the Twilight Haven Home at  
18 Petrolia, Ontario and here was a typical example  
19 which had come up before and again came up on whether  
20 or not these employees are in fact covered under the  
21 Hospital Arbitration Act and if they were whether  
22 or not the home had the right to utilize Section 89  
23 and pass the bylaw.

24 MR. POLLOCK: But you don't have that  
25 problem anymore now that Section 89 is no longer  
26 with us.

27 MR. HEARN: Yes, we still have the problem  
28 and I would like to deal specifically with a case in  
29 point that I am going to take to the Deputy Minister  
30 at 3:30 today. It appeared that the Twilight Haven



1 Home fairly well laid the basic ground rules that  
2 where an institution provided either physical care  
3 or mental care of patients, whether or not they were  
4 privately operated or publicly operated, they were  
5 under the Bill. In the last six or seven years there  
6 has been a corporation developed starting in western  
7 Canada and I am not clear whether they started in  
8 Edmonton or in Vancouver, but they have since spread  
9 across the prairie region in every major city,  
10 Edmonton, Calgary, Saskatoon, Regina, Winnipeg, Fort  
11 William and now they are into Hamilton and Toronto  
12 and they are moving eastward through the Brockville-  
13 Kingston area and on down to the east coast and it  
14 is their intention to become a national organization.  
15 They operate under the name of Central Park Lodge.  
16 Now, this organization accepts older people who need  
17 resident care as well as physical and medical care.

18 MR. POLLOCK: Is this confined to the  
19 summer?

20 MR. HEARN: No, sir, it is a year-round  
21 operation. For example, we organized this group in  
22 Moose Jaw and we were unable to do anything with them  
23 under the legislation. They follow the policy that  
24 they pay the specific minimum wage in every province  
25 where they operate and no more than the minimum wage.  
26 They call everybody attendants male and attendants  
27 female, and they are all paid equally so that at the  
28 present time \$1.00 an hour is roughly the rate in  
29 Ontario. Mr. Hughes, who can speak if you desire on  
30 this question, was assigned by myself to go into Fort



1 William with Local 268 on a conciliation officer matter  
2 and they were totally unable to get together and the  
3 officer recommended a no-board as is the custom.  
4 It is no conciliation board as is the custom since  
5 Bill 41 has been in effect. During the process of  
6 conciliation it was brought out by management that  
7 75% of the residents of the lodge in Fort William  
8 are patients from the Ontario Mental Hospital.

9 THE COMMISSIONER: What do you mean by  
10 that, that they cleared of the necessity of restraint  
11 of an asylum?

12 MR. HEARN: They were cured of the  
13 necessity to be totally confined in a mental  
14 institution, but still needed physical care and mental  
15 care and some medical care and so they were put over  
16 into another form of institution to give them a  
17 little more freedom than they had in the Ontario  
18 Hospital. We proceeded to name a nominee to the board  
19 of arbitration and on Tuesday of this week I received  
20 word from the Department of Labour that they were  
21 not covered in their interpretation under the Bill,  
22 and they would therefore not set up a board of  
23 arbitration.

24 THE COMMISSIONER: Do they admit that this  
25 is in conflict with Mr. Finkelman?

26 MR. HEARN: This appears to be in total  
27 conflict with the decision as shown on page 10 of this  
28 brief. That is Prof. Finkelman's decision on the  
29 matter of the Twilight Haven Home, and it is on this  
30 point that we are reviewing the whole structure this



1 afternoon with Mr. Eberle, the Deputy Minister of  
2 Labour.

3 MR. POLLOCK: So that if they are not  
4 covered by the Act, then they are covered by the  
5 general Labour Relations Act in that the only recourse  
6 you then have is strike action.

7 MR. HEARN: That is right.

8 MR. POLLOCK: Is it the fact that you don't  
9 find out until later on what the eventual course will  
10 be, whether they are covered or whether they are not  
11 that concerns you, or that you think these people  
12 ought to be covered?

13 MR. HEARN: No, it is the fact that we  
14 don't find out until you get to the conciliation  
15 officer stage, that this Bill exists or attempts to  
16 exist.

17 MR. POLLOCK: Then you think perhaps this  
18 could be resolved or it occurs to me it is a point  
19 that might be resolved at the certification time.  
20 The board could determine what type of operation the  
21 employer is carrying on as to whether or not he is  
22 under the Hospital Arbitration Act or whether it falls  
23 under the general Act, and you would know at that  
24 stage what type of animal you are dealing with.

25 MR. HEARN: I rather think, sir, with all  
26 respect, that the place it must be resolved is in this  
27 Hospital Arbitration Act itself in the definition of  
28 what is a hospital.

29 MR. POLLOCK: Well, it is not a question so  
30 much of what the definition of a hospital is, but if



1 this particular item fits within that definition.  
2 Somebody has to say this Central Park Lodge is a  
3 hospital within the meaning of the Act.

4 MR. HEARN: That may very well be the  
5 case, but in any event, there should be some clearing  
6 house in the very early stages that everybody knows  
7 what the definition is and who is covered and who is  
8 not covered.

9 MR. POLLOCK: I would think the labour  
10 board would decide that.

11 MR. HEARN: Well, that is what I think  
12 that the labour board can't decide and it should be  
13 clarified to some extent as to what definition it is  
14 under.

15 MR. POLLOCK: I suppose the snag is they  
16 can't or they are not considered to be sick in needing  
17 medical attention; that is continuous care program.

18 MR. HEARN: Well, the odd thing is  
19 that if they are not considered to be sick, then it  
20 is difficult for us to understand why it is. It is  
21 necessary under the legislation that they maintain a  
22 crew of registered nursing assistants, nurses' aids  
23 and orderlies and general help.

24 THE COMMISSIONER: All I am suggesting  
25 is that if they are sick in any sense of the term  
26 they would seem to come within the Act.

27 MR. HEARN: This is what Prof. Finkelman  
28 in his decision seems to imply, that if they require  
29 medical care or mental care.

30 THE COMMISSIONER: But I think the



1 emphasis on the word "care" is a mistake because care  
2 doesn't necessarily mean that they are sick. It is  
3 a question of how far that word extends really, but I  
4 see your suggestion and it puts it beyond doubt as  
5 you advance it.

6 MR. HEARN: He places great emphasis on  
7 observation and treatment as well, even<sup>at</sup>/the  
8 observation end there is emphasis in that direction.

9 THE COMMISSIONER: Where is it here?  
10 He says "care or treatment of convalescent or  
11 chronically ill persons". Now, he says "convalescent  
12 or chronically ill". That is convalescing from an  
13 illness. I suppose you could say that any impairment  
14 of the mind is today looked upon as illness.

15 MR. HEARN: But he says any "physical  
16 illness, disease or injury".

17 THE COMMISSIONER: Of course, you can  
18 have mere old age which it would be difficult to  
19 describe as an illness.

20 MR. HEARN: I agree with that and we have  
21 combination units of this nature, for example, the  
22 Baycrest Home for the Aged run by the Jewish community  
23 of this city. It is an old folks' home in every  
24 sense of the word, but attached to that is the Baycrest  
25 Hospital and it becomes one and the same administration.  
26 So that in order to provide for the grants and daily  
27 allowances under the legislation for various types  
28 of patients either through the Ontario Hospital  
29 Services Commission or through the Department of  
30 Welfare or through the Department of Health they divide



1 these units up and they are billed in accordance  
2 with the unit care in these institutions. And as I  
3 understand it, the Central Park Lodge made it very  
4 clear that they were receiving these grants from the  
5 provincial government under the Department of Health  
6 for these mentally-ill patients.

7 MR. POLLOCK: Well, without getting into  
8 the merits of whether they are or aren't in this  
9 particular case, you are agreed that that be resolved  
10 at an earlier stage than you find yourself in now.

11 MR. HEARN: Yes, we think a clear  
12 definition one way or the other should be made so that  
13 everybody understands the position.

14 THE COMMISSIONER: Have you anything to  
15 suggest in the way of language?

16 MR. HEARN: Yes, I think the language of  
17 Prof. Finkelman would be included in the Act, it  
18 makes it very clear that an organization or  
19 institution is in fact treating patients or residents  
20 for physical or mental illness or observing them in  
21 the convalescent stages.

22 THE COMMISSIONER: Of course, the  
23 statutory language is generally much more concentrated  
24 than that.

25 MR. HEARN: Well, I have no specific  
26 language to suggest that could resolve it.

27 MR. POLLOCK: Well, does it concern your  
28 union whether they are under the Act or whether they  
29 aren't under the Act in the bargaining on their  
30 behalf?



1 MR. HEARN: It concerns us to the extent  
2 that if you have in these types of institutions  
3 patients that are bedridden and have to be cared for  
4 you are operating as we did here with the assumption  
5 that you are going to have an arbitration board at  
6 the end if you don't get an agreement. Then you come  
7 to the point that you are back in this inevitable  
8 jungle of the strike situation against the person  
9 that is in the hospital and ill and receiving treat-  
10 ment, or in the home and receiving treatment.

11 MR. POLLOCK: But if the Legislature or  
12 some board determines at an earlier stage whether  
13 they are fish or fowl or whatever they are, then  
14 that would settle it.

15 MR. HEARN: Yes.

16 MR. POLLOCK: And as far as your  
17 organization is concerned if you had to go on strike  
18 against the people you would at least have had the  
19 blessings of some governmental agency saying that  
20 "We don't feel they are covered by this particular  
21 legislation".

22 MR. HEARN: Then we would have to take our  
23 chances under the normal collective bargaining  
24 process.

25 MR. HUGHES: Your honour and counsel,  
26 during the negotiations at the Central Park Lodge the  
27 whole attitude during the negotiations and even at  
28 the conciliation officer stage was that they were not  
29 covered and this was management's opinion that they  
30 were not covered and my stand was because of the



1 Twilight Haven Home decision that they were. The  
2 conciliation officer must be operating under an awful  
3 strain in these circumstances because he checked with  
4 the Department of Labour to find out if in fact they  
5 were covered. Now, I have had no way of knowing what  
6 information he received, but the fact that he gave a  
7 no-board report in a situation of this nature at that  
8 time I think he was given the information that they  
9 most likely were covered. So, it was just a stalemate  
10 and no matter how many meetings we had they were taking  
11 the stand that they weren't covered under the  
12 arbitration Bill and we were taking the stand that  
13 they were, and there could be no progress made under  
14 these conditions.

15 THE COMMISSIONER: Well, really you want  
16 to know what your procedure is.

17 MR. HEARN: Yes.

18 MR. HUGHES: And the fact that the  
19 report or the recommendation of the officer was a no-  
20 board report in a situation of this nature, I think  
21 the Minister under any other circumstances would  
22 have not supported him on a no-board stand because he  
23 puts us in a strike position right away and I am  
24 sure this isn't what the Bill was intended to do, but  
25 we are in a legal position to strike at this  
26 particular place now, but we don't want to get back  
27 into that jungle.

28 MR. HEARN: The second point arises under  
29 the question of what is an employee of a hospital,  
30 resulting from this no development of contracting out



1 of services. Now, at the present time the contracting  
2 out problem is in two areas. One is in the house-  
3 keeping service area for the custodial and janitorial  
4 services, and the other is in the housekeeping staff ---  
5 I am sorry --- in the dietary staff. Now, since the  
6 preparation of this brief in its final form the third  
7 aspect has become a very strong reality, in the  
8 laundry area of the hospital and opening this month  
9 or the early part of May is a new organization known  
10 as the Nipissing Laundry Association. This is a  
11 corporation that is formed on a bond issue on the  
12 market and is going to have the effect of eliminating  
13 all of the laundry services in St. Joseph's Hospital  
14 at North Bay, the North Bay Civic Hospital, the  
15 Parry Sound Hospital and a number of other  
16 institutions in a geographical radius of about 35 or  
17 40 miles around the pivot point of North Bay.

18 THE COMMISSIONER: They are not  
19 monopolizing the laundry services in the district, are  
20 they?

21 MR. HEARN: No, but they are going to  
22 exclusively deal at the initial stage with laundry  
23 operations for hospitals only. This is the intent.

24 THE COMMISSIONER: The board wouldn't  
25 prevent the hospital from going outside if there was  
26 any strike in the organization?

27 MR. HEARN: No, that is correct. They  
28 could launder outside. There are also two sites  
29 either optioned on or bought here in the City of  
30 Toronto for centralized laundry operations for a number



1 of Toronto hospitals. Now, these three areas give us  
2 great concern. For example, if the food service  
3 operation of, say, Diversifood Company is struck by  
4 our union or any other union, it would be totally  
5 impossible for the hospital on an immediate one or two-  
6 day notice to get any other company to supply the  
7 necessary food services to the patients.

8 THE COMMISSIONER: Could they organize  
9 a standby of their own?

10 MR. HEARN: No. The food at the moment at  
11 one particular hospital that operates on this basis  
12 is in Burlington and the food is prepared in Hamilton  
13 and trucked in.

14 MR. POLLOCK: Well, on what do you base  
15 your conclusion that on a couple days' notice they  
16 couldn't make other arrangements? They may have to  
17 pay a little bit more for it, but they could probably  
18 get it.

19 MR. HEARN: Well, we base our conclusion  
20 on the fact that in hospitals there are a great  
21 variety of patients that have to be fed, many of whom  
22 are under very strict discipline diets, for diabetes  
23 and other reasons, and these menus are already on  
24 file with this particular company and are prepared  
25 to the greatest extent possible as far in advance  
26 for the purchase of food and the preparation of food  
27 as far as you can humanly do it without bacterial  
28 contamination. If that was suddenly shut off the  
29 hospital involved/would be utterly impossible for them.  
30

THE COMMISSIONER: Could they stock it in



1 the hospital to any extent?

2 MR. HEARN: No, not even under the best of  
3 refrigerated circumstances.

4 MR. POLLOCK: Well, the suppliers them-  
5 selves are not confining themselves to the hospitals  
6 in this case?

7 MR. HEARN: No, the Diversifood operation  
8 serves food canteens in a variety of plants and shops  
9 and theatres in other places. They serve cafeterias  
10 in plants and now they are into the hospital operation  
11 as well.

12 THE COMMISSIONER: But for an emergency  
13 situation why shouldn't the hospital be prepared to  
14 supply themselves with this exceptional treatment of  
15 serious cases of illness?

16 MR. HEARN: Well, as we understand it, sir,  
17 in the Burlington Hospital they do not even have a  
18 central kitchen for cooking purposes and that  
19 hospital is between 250 and 350 beds. That is an  
20 awful lot of food to have to prepare without a  
21 kitchen.

22 THE COMMISSIONER: Well, they certainly  
23 should contemplate the possibility if the one source  
24 of supply could be cut off.

25 MR. POLLOCK: What would happen if  
26 Diversifood burned down?

27 MR. HEARN: I don't know.

28 MR. POLLOCK: They would soon find another  
29 source. I would assume that during a short period  
30 of time that it took them that the hospital fare would



1 decrease in palatability and in most of those patients  
2 that were in the hospital are not on special diets and  
3 I am sure the large number are, yes, but others could  
4 probably have sandwiches or something like that and  
5 exist.

6 MR. HEARN: This is possible, and I  
7 presume all the other hospitals could pitch in and  
8 help them out in a real dire emergency of a fire or  
9 something for a short period of time.

10 THE COMMISSIONER: Unless they are all in  
11 the same box.

12 MR. HEARN: No. To our knowledge there  
13 is only the one in the Hamilton area.

14 THE COMMISSIONER: But this is just the  
15 beginning.

16 MR. HEARN: Yes, this is the beginning  
17 and this is what is giving us the concern and if this  
18 is found to be economically sound and it spreads,  
19 then it becomes a greater problem in each and every  
20 hospital that goes into this contracting business.

21 MR. POLLOCK: Well, of course, that is  
22 the danger or risk of any subcontracting work. You  
23 lose some control over it so you make up on the beans  
24 what you lose on the peas. It is cheaper; that is why  
25 you have to take the risk.

26 MR. HEARN: We are not condemning them  
27 for doing it because it is cheaper, but we are  
28 wondering what happens if there is a prolonged strike  
29 or even a short-lived strike of even one or two days  
30 and you get into a highly-concentrated area, for



1 example, Toronto where you have the Toronto General  
2 Hospital with 1,500 beds and the Mount Sinai with  
3 another 500 or 600 and the Sick Children's Hospital  
4 with 1,100. Now, if those three hospitals had a  
5 centralized canteen operation and they were struck,  
6 you have immediately taken 3,000 people and put them  
7 into an impossible position for food in one day.  
8 In one day you have got to prepare 9,000 meals plus  
9 the other staff in the hospital have to eat.

10 MR. POLLOCK: Unless the union that  
11 represented that canteen operation is prepared to  
12 produce food for this type of emergency for the  
13 hospitals and only limit its strike to the production  
14 of non-essential areas.

3 15 MR. HEARN: And in some cases, as we  
16 understand the operation, the companies that are  
17 setting up these operations are going to set up  
18 specific plants only for the hospitals so that if  
19 they are going to strike at all they are not going  
20 to agree to serve the hospitals because of the strike  
21 and agree to service them because then the strike is  
22 done before it starts.

23 MR. POLLOCK: If that is the whole  
24 operation, then I think on those facts you might have  
25 a better position.

26 MR. HEARN: It might not be the whole  
27 operation, but they are going to centralize plants for  
28 this type of operation if they can make this thing  
29 stand up. Then you have got the other area of the  
30 housekeeping services.



*Nethercut & Young**Toronto, Ontario*

1 THE COMMISSIONER: How does that work?  
2 What do you mean by that?

3 MR. HEARN: All of the janitorial services,  
4 all of the cleaning of the corridors and the rooms and  
5 the waxing and the polishing and the ashtrays and the  
6 snow removal, the whole deal is tied up with the  
7 housekeeping operation.

8 THE COMMISSIONER: And these are all  
9 employees of an outside agency?

10 MR. HEARN: That is the way they are going  
11 now, sir.

12 THE COMMISSIONER: And these agencies  
13 have other work to do?

14 MR. HEARN: The main contract is the  
15 modern contract, the modern building cleaning companies

16 THE COMMISSIONER: And do those people  
17 who work in the hospital work exclusively there?

18 MR. HEARN: Yes.

19 THE COMMISSIONER: Then they could be  
20 segregated from the rest of the employees in other  
21 places and they could belong to your union, whereas  
22 others might belong to another union.

23 MR. HEARN: That is right.

24 MR. POLLOCK: They probably all belong to  
25 another union anyway.

26 MR. HEARN: Yes. We are organizing the  
27 contractors' employees, but in organizing them they  
28 are organized by unit for each building where the  
29 members are working. They are not organized on a  
30 broad city basis. We were lucky in Saskatoon in that



1 we got the whole operation of every unit they had  
2 in the city simultaneously and we got a certification  
3 of the unit and it just so happened that it covered  
4 the citywide operation, but this was a fluke more or  
5 less, it just happened.

6 MR. POLLOCK: That is the eminent  
7 sensibility of Saskatoonians. That is my home.

8 MR. HEARN: And I might say that is  
9 a pure accident.

10 But these are the three key areas at  
11 the moment that concern us because the housekeeping  
12 service in the hospital as we know them are just as  
13 important as the actual medical treatment because if  
14 you can't treat a person in clean surroundings, then  
15 you lose the value of the treatment by the bacterial  
16 count buildup and this becomes a very important issue  
17 and we live in this quandary of whether or not the  
18 contractors' employees in the hospitals where they  
19 have these hospital contracts should be covered or  
20 shouldn't be covered. This is the vacuum that we are  
21 in at the moment, and this is spreading fairly  
22 rapidly on a broad basis.

23 THE COMMISSIONER: And you say that you  
24 can obtain a unit under the Labour Act that is  
25 restricted to that hospital?

26 MR. HEARN: Yes, sir. It would be all  
27 employees of this contractor employed at the A.B.C.  
28 Hospital.

29 The third area, and  
30 this is the important area in the general hospital



1 bargaining, is the question of this 35-day time limit  
2 after we have received the recommendation from the  
3 Minister of no conciliation board or after a concilia-  
4 tion board has reported. Now, the question of the  
5 conciliation board report has not been a prevalent  
6 question since the Victoria Hospital at London  
7 situation two years ago. That situation had actually  
8 started prior to the Bill coming into effect, but  
9 since the Bill has been in effect I can't think of an  
10 instance where the Department of Labour has granted  
11 a conciliation board. If the officer can't bring the  
12 parties together, they waive the board and move to  
13 arbitration.

14 THE COMMISSIONER: What is the point here?

15 MR. HEARN: The point is, sir, that if  
16 you read the brief, pages 14 through 18, you will  
17 note that hospitals are using this 35-day time limit  
18 as a tactic for delaying the proceedings and they  
19 are in each and every case waiting the full 35 days  
20 before they appoint.

21 THE COMMISSIONER: Have you ever asked  
22 for a retroactive application?

23 MR. HEARN: In each and every instance  
24 that we have appeared before an arbitration board we  
25 have asked for full retroactivity.

26 THE COMMISSIONER: With what success?

27 MR. HEARN: With very little success.  
28 We have had one recently and there have been perhaps  
29 20% of the cases that went to arbitration that granted  
30 the full retroactivity, but the others have more or



1 less taken the position of a conciliation board and  
2 sawed it off somewhere at a medium point.

3 MR. POLLOCK: As I understand it and  
4 you can correct me, the original purpose of the 35  
5 days was to provide sort of a last opportunity for the  
6 parties to get together, is that it?

7 MR. HEARN: I beg your pardon, sir.

8 MR. POLLOCK: The 35 days is to provide  
9 the last opportunity for the parties to get together  
10 and iron out their differences.

11 MR. HEARN: Yes, that was, I presume,  
12 the intent of the Bill.

13 MR. POLLOCK: And in any of these  
14 circumstances have there been any meetings between  
15 those 35 days?

16 MR. HEARN: Yes, there were perhaps 25%  
17 of the cases that went to arbitration made an attempt  
18 during the 35 days to reach an agreement.

19 MR. POLLOCK: Were any of the cases  
20 settled in those 35 days?

21 MR. HEARN: No, sir.

22 MR. POLLOCK: So they are either settled  
23 before the conciliation officer or not at all.

24 MR. HEARN: That is right.

25 MR. POLLOCK: So there would be some  
26 occasions when the 35 days could be used, if there is  
27 some discussion it may be fruitful.

28 MR. HEARN: Generally speaking, sir, the  
29 experience has taught us that if you are going to  
30 get to the point of arbitration as a result of being



1 unable to resolve the differences at the conciliation  
2 officer level, that the positions of both sides are  
3 so hardened that future meetings would serve little  
4 or no value.

5 MR. POLLOCK: Then perhaps the flexibility  
6 in the arbitrator to award retroactivity in cases  
7 where there hasn't been any useful opportunity taken  
8 of this 35-day period might be a sufficient check on  
9 the 35 days, rather than the total elimination and  
10 thereby recruiting <sup>its</sup> / reference at some beneficial  
11 stage.

12 MR. HEARN: Except on the question of  
13 retroactivity which we are going to deal with later  
14 in the presentation. We don't agree with that, we  
15 think that if you cannot deal in the normal sense of  
16 economic pressures then the features of retroactivity  
17 should not be denied, because in many cases and in  
18 fact in most cases it is not on the union's side that  
19 the matter goes to arbitration, and we could cite the  
20 cases that have gone to arbitration and we could  
21 review with you the points in dispute. For example,  
22 let's just take three or four of the cases that went  
23 to arbitration and what were the key issues that  
24 sent the matters to arbitration. Let's look at page  
25 16. The Dufferin Area Hospital, the key issue was  
26 for as many years as employees could remember, employees  
27 were hired and granted three weeks' holidays after  
28 one year of service. Management's position throughout  
29 the entire bargaining session and throughout the  
30 entire conciliation officer and conciliation board and



1 this was another one that had started before the Bill  
2 went into effect. The conciliation officer and  
3 conciliation board proceedings were that the three  
4 weeks had to be eliminated and replaced with two  
5 weeks after one year of service. Now, what did the  
6 arbitrator do?

7 MR. POLLOCK: What was their position  
8 or why did they say that, because it was going to  
9 cost them more money?

10 MR. HEARN: No. The position was that  
11 if they had to meet the average wages in the average  
12 hospital that they had to meet the average statutory  
13 holidays and sick leave provisions they thought they  
14 should have a right to meet the average vacation  
15 credit of other hospitals.

16 MR. POLLOCK: That is not an unreasonable  
17 position.

18 MR. HEARN: Until you heard the arbitrator's  
19 decision and then you see how unreasonable it is.  
20 We agreed with the hospital that the three weeks'  
21 vacation was worth roughly \$5.00 per month per  
22 employee based on an average wage of \$12.00 per day,  
23 \$60.00 a week. The arbitrator reduced this wage  
24 award by \$5.00 a month and then said present employees  
25 will maintain their three weeks holidays but new  
26 employees will only get two weeks' holidays. Now,  
27 we think that this was totally unreasonable. If you  
28 had to work for \$5.00 less that was the value of the  
29 vacation, then you should have at least got the  
30 vacation.



1 MR. POLLOCK: Well, they did. That is,  
2 the existing employees did.

3 MR. HEARN: But new employees are still  
4 going to work for \$5.00 less than the average.

5 MR. POLLOCK: If they want to come and  
6 work there. They are not changing the working  
7 conditions that they were operating under until that  
8 time and when they come to get a job they are now  
9 told that you get so much per week and two weeks'  
10 vacation.

11 MR. HEARN: Yes, but built in that wage  
12 rate is an allowance of \$5.00 per month for three  
13 weeks' vacation. If the arbitrator wanted to go that  
14 far in fairness he could have said that new people  
15 get \$5.00 a month more than the old people because  
16 they are not going to get a third week's vacation.

17 THE COMMISSIONER: You have arrived at the  
18 figure which was \$5.00 more.

19 MR. HEARN: Yes, and the parties that  
20 more or less bargained a fair rate and then this was  
21 chopped.

22 MR. POLLOCK: So that your concern is  
23 about the future employees, that is, the working  
24 conditions for subsequent employees?

25 MR. HEARN: No. We are concerned about the  
26 whole question.

27 MR. POLLOCK: But in that particular  
28 dispute the people working in the plant or the hospital,  
29 I am sorry, they got the same holiday provision and  
30 paid \$5.00 for it.



1 MR. HEARN: Finally, yes.

2 MR. POLLOCK: And the new people weren't  
3 in the situation at the time of the negotiations so  
4 that they didn't bargain about anything, that is a  
5 question that they are now being paid less.

6 THE COMMISSIONER: They didn't get the  
7 holidays, but they are paying for them, is that right?

8 MR. HEARN: That is right, but the key  
9 issue is whether or not the employees should be  
10 deprived of a week's holidays which they always had.

11 MR. POLLOCK: But they are not being  
12 deprived of a week's holiday.

13 MR. HEARN: Finally they are not, but  
14 that is the issue that sent it to arbitration  
15 and nothing else could be settled until that issue is  
16 resolved.

17 What we are concerned about  
18 when a decision is handed down like this we get an  
19 unscrupulous employer, would he in fact lay off his  
20 old standing employees to take that extra week's  
21 vacation away.

22 THE COMMISSIONER: Well, you have the  
23 right of appeal, don't you, under the agreement?

24 MR. HEARN: Yes, we have the appeal.

25 MR. POLLOCK: Well, I presume that that  
26 technique has been employed many times in other  
27 situations and it usually doesn't turn out to be  
28 that successful.

29 MR. HEARN: The thing I want to emphasize  
30 is how one point will force the whole issue to



1 arbitration. We even offered to isolate the question  
2 of vacations from the proceedings and move to an  
3 agreement on all other points and arbitrate the  
4 vacation item only and the hospital would have no part  
5 of it.

6 MR. POLLOCK: Of course, their position  
7 was that the whole thing was tied up in how much is it  
8 going to cost us to operate this hospital.

9 MR. HEARN: And it took us two weeks from  
10 the day of certification to the finale of the  
11 agreement.

12 THE COMMISSIONER: What do you find the  
13 attitude generally of the hospitals towards  
14 negotiating with the union is?

15 MR. HEARN: It has improved considerably  
16 under the Bill.

17 MR. POLLOCK: They are as afraid of compulsory  
18 arbitration now as other people are of it happening  
19 to them.

20 MR. HEARN: Yes, and most of them are  
21 taking the position that they do not want to be told  
22 what to do. Now there are some who are not taking that  
23 position. For example, the Wellesley Hospital here  
24 in Toronto, six or seven weeks ago sent us a letter  
25 and said "We just don't want to make the decision.  
26 We would sooner have an arbitrator tell us what to  
27 do".

28 THE COMMISSIONER: Have any of them had  
29 any reasonable grounds to object to arbitration?  
30



1 MR. HEARN: I wouldn't think so.

2 THE COMMISSIONER: Have they made them-  
3 selves very vociferous as to criticism?

4 MR. HEARN: No, I haven't heard any  
5 great vociferous objections to the awards that have  
6 come down.

7 MR. MITCHELL: Mr. Commissioner, regarding  
8 the hospitals' attitude to the awards, in some cases  
9 the hospital would wish to agree with the  
10 recommendations because some arbitrators may try and  
11 mediate during the arbitration hearings, but they  
12 cannot because their financial resources are  
13 controlled by the Commission and they may want this.

14 THE COMMISSIONER: Is the Commission  
15 drawn into these arbitrations?

16 MR. MITCHELL: No.

17 MR. HEARN: The only point I wanted to  
18 make on the question of the Dufferin Area Hospital  
19 was that it was two years from the point of  
20 certification to the point of finality under the  
21 arbitration Bill. The employees were given about six  
22 weeks' retroactive pay. Now, that was a tremendous  
23 price to pay to resolve an issue.

24 MR. POLLOCK: Well, they didn't have to  
25 suffer through a strike which some others might have  
26 and still not get any more retroactivity.

27 MR. HEARN: That may be true, but they  
28 are not making the wages that most of the people that  
29 are striking are making either. The average wage in  
30 Orangeville was a minimum of \$1.00 an hour or \$40.00 a



1 week.

2 MR. POLLOCK: Well, we heard yesterday  
3 about Tilco and they are not doing much better.

4 MR. HEARN: The St. Andrew's Hospital in  
5 Midland, what was the key issue at the St. Andrew's  
6 Hospital in Midland? Again it was the same question,  
7 do we reduce down from three weeks' holidays and come  
8 down to two, or do we hold it at three? The hospital's  
9 argument was that they had always granted in lieu of  
10 payment for five statutory holidays they had granted  
11 a third week's vacation and they wanted to eliminate  
12 this. This matter went to arbitration and the  
13 arbitrator held no, the three weeks must continue.

14 MR. POLLOCK: Who was the arbitrator in  
15 the Dufferin case?

16 MR. HEARN: In the Dufferin Area Hospital  
17 case it was Judge Lane.

18 MR. POLLOCK: And in St. Andrew's it was  
19 Judge Arrell.

20 MR. POLLOCK: Unless you want to wait  
21 until we get to the discussion of how the arbitration  
22 boards are constituted, I will leave my question  
23 until then, but what I wanted to know was as we go  
24 through these various disputes how are the arbitrators  
25 agreed upon and whether in fact they are appointed  
26 by somebody else because the parties can't agree.

27 MR. HEARN: As I recall the Dufferin Area  
28 case the chairman was appointed. In the St. Andrew's  
29 Hospital case it was agreement of the parties.

30 MR. POLLOCK: And at Meaford?



1 MR. HEARN: At Meaford it was an agreed  
2 upon chairman and it was Judge Lane and he was agreed  
3 to by the parties.

4 MR. POLLOCK: On page 14 you have the  
5 reference or a list of all those cases that went to  
6 arbitration.

7 MR. HEARN: Yes. In the Welland County  
8 Hospital was Prof. Arthurs and this was an appointment.  
9 The Brantford General Hospital was at that time Magistrate  
10 Hanrahan and he was then a magistrate. That was an  
11 agreement. The Victoria Hospital at London was Judge  
12 Garth Moore and that was an appointment. The  
13 Freeport Sanatorium was Mr. Norman Murchison and that  
14 was an appointment. The Dufferin Area Hospital we  
15 have given you was Judge Lane and I believe that was  
16 an appointment. The St. Andrews Hospital at Midland  
17 was Judge Arrell and that was by agreement. The  
18 Meaford General Hospital was Judge Lane by agreement,  
19 and I might say the agreement was before the Dufferin  
20 award. The Victoria Hospital at London, that was the  
21 second time around for arbitration, was Mr. Richard  
22 Geddes by agreement. The Stevenson Memorial Hospital  
23 at Alliston was Judge Bennett and that was by  
24 agreement. The Parkwood Hospital was Judge Reville  
25 and that was by appointment. And the Norfolk General  
26 Hospital at Simcoe was Judge Reville by agreement.

27 MR. POLLOCK: So you have by and large  
28 resorted to County Court Judges for resolution.

29 MR. HEARN: Yes, and this poses another  
30 problem that we will deal with later.



1  
2 MR. POLLOCK: I heard you talk about  
3 the St. Andrews Hospital.

4 MR. HEARN: Well, we had finished with  
5 that and the vacations again were the issue there and  
6 we told you how the judge disposed of that particular  
7 issue. The Stevenson Memorial Hospital again an issue  
8 on the reduction of the vacation period and we are  
9 awaiting the decision of that one now. Judge Bennett  
10 has not brought down the award on that yet. The  
11 hearing was held on February the 23rd, I believe, the  
12 20th or 23rd. Now, you can see that there are three  
13 where there is a direct bearing of the hospital trying  
14 to use the mechanics of a union agreement to reduce  
15 existing conditions that have been in effect  
16 historically.

17 THE COMMISSIONER: But you must keep in  
18 mind not only that specific item but all of  
19 the items of which that forms a part.

20 MR. HEARN: Yes, sir, and we can bring  
21 evidence on this point that the vacations which they  
22 are trying to reduce in many cases, for example, the  
23 Stevenson Memorial Hospital, the vacations allowances  
24 in that hospital are exactly at the mean average point  
25 of all of the hospitals in the Province of Ontario.

26 THE COMMISSIONER: What happened?

27 MR. HEARN: We are waiting for the  
28 decision now, we don't know, but that was the case of  
29 three weeks' vacation after six years of service and  
30 they are trying to bring that back to two weeks after  
one year and three after ten.



1 MR. POLLOCK: They are learning from their  
2 brothers.

3 MR. HEARN: Yes, they are, and there is a  
4 flow and with all due respect with counsel that  
5 threads through these negotiations that where this  
6 issue finds itself simultaneous and the same law firm  
7 is involved.

8 THE COMMISSIONER: Well, you believe in  
9 the equalization or uniformity, don't you?

10 MR. HEARN: Yes, sir, but I believe with  
11 Gordon Sinclair when he touched on this point some  
12 weeks ago in his six o'clock broadcast and when he  
13 said that he was for the question of the NDP  
14 equalization, but he didn't agree that everybody  
15 ought to be brought down to their level, but they  
16 ought to be elevated up to the other people's levels,  
17 and that is what we agree with. Let everyone come up  
18 to the three weeks after three years of service and  
19 don't drag them back. In the other hospitals that  
20 have gone to arbitration there have been a number of  
21 issues so you can't pinpoint any single issue that  
22 resulted in the forcing of the matter to arbitration.

23 THE COMMISSIONER: Well, in these you  
24 object to the unnecessary delays?

25 MR. HEARN: The unnecessary delay in  
26 getting the chairman to agree to or appoint it, and  
27 getting the thing started. That was the main question  
28 at the moment, the delay. Now, going further into this  
29 delaying procedure, we say that the Labour Relations  
30 Act should be amended and this is on page 18, that the



1 conciliation board should definitely be eliminated  
2 as a matter of procedure.

3 THE COMMISSIONER: You just summarized  
4 your reasons for getting rid of the board.

5 MR. HEARN: Sir, if the hospitals have  
6 to go to arbitration we can see very little reason if  
7 the conciliation officer has been unable to bring the  
8 parties together, then it is pretty obvious that there  
9 are some pretty serious disputes between the parties  
10 or some pretty basic principles that are separating  
11 the parties and to further try and conciliate this  
12 we think experience has taught us that it is just  
13 foolish.

14 MR. POLLOCK: Are you talking about  
15 limiting your discussion now to hospital arbitration  
16 or conciliation boards in a general sense?

17 MR. HEARN: No. In the sense of  
18 hospital bargaining that the Act should specifically  
19 provide that in hospital bargaining no conciliation  
20 board will be utilized.

21 THE COMMISSIONER: As a matter of fact,  
22 I was assuming the other way.

23 MR. HEARN: No.

24 THE COMMISSIONER: I was assuming that  
25 you were on general principles with regard to the  
26 conciliation board. |

27 MR. HEARN: No, I think our organization  
28 would agree, sir, and we have never been, or always  
29 been a maverick in the organization movement. But  
30 we believe the conciliation board in the organization



1 plays a vital role and it can be a useful instrument  
2 in many cases in bringing the parties together.

3 THE COMMISSIONER: Well, it is suggested  
4 that what it does is interfere with that generation of  
5 crisis that is so essential to the ultimate result.

5 6 MR. HEARN: Well, I think the generation  
7 of crisis can perhaps wait a few more months for  
8 maturity in some instances, in the interests of trying  
9 to eliminate the crisis entirely. I think that is an  
10 opinion shared by my colleagues this morning.

11 In specifics we think of the hospital  
12 cases simply for the reasons we have stated, that  
13 it just creates further delay. There is going to be  
14 no crisis situation anyway, so why create a burden?  
15 It was interesting while we were preparing the brief  
16 that the article appeared in the Globe & Mail of the  
17 statistics of the number of settlements that have  
18 been reached at the conciliation officer settlement  
19 and the number of no-board recommendations. But we do  
20 believe in the case of hospitals they should be  
21 eliminated and in other cases it may require an  
22 agreement by the parties to set it up or by one party  
23 to set it up, but I don't believe and I don't think  
24 my colleagues believe that we should eliminate the  
25 conciliation board process in its entirety. Now,  
26 coming to article 7 in Bill 41, this deals with the  
27 question of length of agreements.

28 MR. POLLOCK: References are here with  
29 regard to articles or sections.

30 MR. HEARN: We better say "articles",



1 because there are subsections.

2 MR. POLLOCK: If you are going to say  
3 "article 7" and a subsection, then you have to say  
4 "article" --- some article.

5 MR. HEARN: Then the articles will be  
6 known as sections. I appreciate the correction and  
7 if that is the legal definition we will be using in  
8 the future, we will govern ourselves accordingly in  
9 presentations.

10 Now, the article provides for the term  
11 of an agreement for one year, but this has been ---  
12 Section 7, subsection (7) except where the parties  
13 agree to a longer term of operation a collective  
14 agreement made under this Act remains in force for  
15 one year from the day the agreement was executed or  
16 if it is all right to be executed because the  
17 parties failed to execute the agreement.

18 And subsection 8 provides that:  
19 "Notwithstanding subsection 7 the board of arbitration  
20 may provide where notice was given under Section 11  
21 of the Labour Act the agreement or any of its terms  
22 shall be retroactive to such day as the board may  
23 fix, but not earlier than the day upon which such  
24 notice was given".

25 MR. POLLOCK: That is the notice to  
26 bargain collectively.

27 MR. HEARN: Yes, and that is for the  
28 first agreement under Section 11 or Section 44 a  
29 renewal. Now, in this direction we propoose that  
30 this should be changed, as we point out on page 20



1 in the centre of the page, our organization suggested  
2 that this should be amended by deleting from the third  
3 line "such day as the board may fix but not earlier  
4 than". The clause would then read:

5 "Where notice was given under  
6 Section 11 of The Labour Relations  
7 Act, the agreement and any of its  
8 terms shall be retroactive to the  
9 day upon which such notice was  
10 given: or in the case of renewals  
11 to the expiry date of the previous  
12 agreement".

13 MR. POLLOCK: Then it is still permissive  
14 to the board to award it.

15 MR. HEARN: It is still permissive, but  
16 there are very few boards that utilize it and I only  
17 know of one so far that has completely awarded  
18 retroactivity on all points.

19 MR. POLLOCK: So by eliminating that you  
20 are saying that it is either all or nothing.

21 MR. HEARN: By eliminating that we are  
22 saying that it is all or nothing, sir, in the same  
23 way, but it is all or nothing under the Policemen  
24 and Firemen's Act.

25 So that in some circumstances the  
26 arbitrator will feel that there has been some delay  
27 on the union's part in which case you say, "Well, the  
28 hospital shouldn't pay the whole of the retroactivity,"  
29 but if you eliminate that he will say then they won't  
30 have to pay any of it.



1 MR. HEARN: If you eliminate that, it  
2 becomes the same as the Policemen and Firemen's Act  
3 and that is our contention here that the agreement  
4 would be effective from its first day.

5 MR. POLLOCK: Well, it reads: "The board  
6 of arbitration may provide" for this retroactivity.  
7 You haven't changed the first part of Section 8.

8 MR. HEARN: We say it "shall be retroactive  
9 to the day upon which such notice was given". It "shall  
10 be".

11 MR. POLLOCK: But you haven't changed the  
12 first part of the section, have you? It says:  
13 "Notwithstanding subsection 7 the board of arbitration  
14 may provide for the retroactivity." That is the part  
15 that gives the discretion to the board.

16 MR. HEARN: Excepting Section 7 deals  
17 mainly with the length of the agreement.

18 MR. POLLOCK: Subsection 8 says  
19 notwithstanding subsection 7.

20 MR. HEARN: And subsection 7 is the length  
21 of the agreement.

22 MR. POLLOCK: "The board of arbitration  
23 may provide" --- do you want to change that to read  
24 "shall provide"?

25 MR. HEARN: Yes.

26 MR. POLLOCK: Then that is where you  
27 should make your change. If you want to make retroactivity  
28 mandatory, then that is the place where the "shall"  
29 should be.

30 THE COMMISSIONER: Well, that is what you



1 suggest. We say that this should be changed to "shall  
2 provide".

3 MR. HEARN: It would have to be changed  
4 in all places if that interpretation is correct.

5 MR. POLLOCK: Yes.

6 THE COMMISSIONER: Now a question arises  
7 in my mind whether or not the hospital can provide  
8 for prior expenses that is in a future year or are  
9 they limited to the amounts which they provide for at  
10 the beginning of the year?

11 MR. HEARN: Sir, in many cases we are  
12 talking about a situation where agreements are written  
13 in June and July and September and October and in  
14 March, and the work in a fiscal year of January to  
15 December. Now, the Hospital Commission has informed  
16 us over and over again that they will not interfere  
17 with hospital bargaining and that when the bargaining  
18 is finished the hospitals have to submit the budget,  
19 that is all.

20 THE COMMISSIONER: Then there is authority  
21 with the Commission to provide for expenses that were  
22 not contemplated or not provided for at the beginning.

23 MR. HEARN: That is correct, sir, in the  
24 same way that a hospital may submit its budget in  
25 October, that is the common month for submitting the  
26 budget for the coming year. The hospital may find  
27 itself in the position that they know they are going  
28 to be bargaining in December with the union and they  
29 don't know what the wage rates are going to be.

30 THE COMMISSIONER: But they know when the



1 agreement will end.

2 MR. HEARN: That is right, but the  
3 says  
4 Commission/never minds what you are going to come  
5 up with, negotiate the agreement and come back  
6 with a revised budget, but give us a preliminary  
7 budget to go on.

8 MR. POLLOCK: What has been your  
9 experience with retroactivity?

10 MR. HEARN: It has been a bad experience.  
11 In the case of the Dufferin Area Hospital that we  
12 cited you, we told you about six weeks retroactivity  
13 was given out of two years.

14 MR. POLLOCK: I wonder if we could go  
15 through this the same way we did with the arbitrators  
16 and start with Welland.

17 MR. HEARN: In Welland the arbitrator  
18 provided for three-quarters of total increase to be  
19 retroactive to the expiry date of the agreement.

20 MR. POLLOCK: How long or what was the  
21 time lapse from your notice until the decision?  
22 This question perhaps comes upon you by surprise, sir,  
23 and perhaps we could take a short adjournment and you  
24 could in ten or fifteen minutes get this.

25 MR. HEARN: No, I can get it out of the  
26 brief, sir. The Welland contract expired in October  
27 of 1964. The award was rendered in October of 1965,  
28 it was a year. It was actually about eleven months,  
29 as I recall, but it was almost a year. In the Victoria  
30 Hospital ---



1 MR. POLLOCK: What about Brantford?

2 MR. HEARN: In Brantford the award, and  
3 this was a peculiar award, the award was retroactive  
4 to the expiry date of the agreement, which was ten  
5 months, but no further wage increases were granted  
6 and that contract was signed for a further year so  
7 that it became a 22-month agreement in effect.

8 THE COMMISSIONER: I don't quite understand  
9 that.

10 MR. HEARN: The arbitrator awarded the  
11 agreement to be retroactive to its expiry date and to  
12 run one year from the date of his award.

13 MR. POLLOCK: In other words, if he didn't  
14 do that he would have found it was a one-year agree-  
15 ment, he would have found that you would have had  
16 this agreement in effect for two years and then you  
17 would be negotiating another contract.

18 MR. HEARN: In the same way that the  
19 policemen and firemen may very well find themselves  
20 in that position, and they do very often. As a matter  
21 of fact, the police and firemen you very well know  
22 this because of your former association with Mr.  
23 Dubin who did a lot of counsel work for firemen and  
24 policemen, that they find themselves in a position  
25 of serving notice for a new agreement before they  
26 had the one on the one they were talking about.

27 MR. POLLOCK: I don't think that is a  
28 very happy situation.

29 MR. HEARN: No, it is not. In the Victoria  
30 Hospital in London the expiry date was December 31st,



1 1964 and the award was made in October on the 12th,  
2 1965. There was a wage increase for that nine months  
3 or ten months and a further wage increase effective  
4 the date of the agreement, so there was a retroactive  
5 --- it was fully retroactive.

6 The Freeport Sanatorium was a first  
7 agreement and there was no retroactive pay of any kind.

8 MR. POLLOCK: This is not an unusual  
9 circumstance even in a first agreement, even when a  
10 contract is negotiated for the first time that there  
11 is no or limited retroactive activity.

12 MR. HUGHES: Except that Bill 41 has  
13 built in delays.

14 MR. HEARN: And Bill 41 envisages a  
15 retroactivity. There is also the delay in the  
16 additional negotiations. With regard to the Dufferin  
17 Area Hospital it went almost two years from its date  
18 of certification. This was a first agreement and there  
19 was about a month or six weeks' retroactivity. Now,  
20 I think the important thing you have to remember here,  
21 when you deal with a situation such as the Dufferin  
22 Area the wage rates which the arbitrator awarded were  
23 rates in October or November of last year, they were  
24 rates that the parties agreed among themselves would  
25 be acceptable in January of last year and other  
26 hospitals had paid it from January of last year  
27 under a two-year agreement that the employees were  
28 given further pay cuts for the coming year. In  
29 this case they did not.

30 MR. POLLOCK: I guess you should have



1 signed the agreement at the time that it was offered  
2 to you.

3 MR. HEARN: Except that you just can't  
4 take the third week of vacation away and the  
5 arbitrator has as much as inferred that.

6 MR. HUGHES: We offered to arbitrate that  
7 issue alone.

8 MR. POLLOCK: Well, that was discussed  
9 earlier.

10 MR. HEARN: The St. Andrews Hospital in  
11 Midland went 10 or 11 months from the date of  
12 certification to the date of agreement.

13 THE COMMISSIONER: Was there nothing  
14 retroactive?

15 MR. HEARN: The arbitrator awarded a two-  
16 year agreement by mutual consent of the parties, but  
17 again he made the first increase retroactive and then  
18 to continue for another year so that that one wage  
19 increase stood for 20 or 22 months.

20 MR. POLLOCK: But it started back at the  
21 time notice was served.

22 MR. HEARN: Yes, but in the meantime all  
23 the other hospitals were picking up substantial wage  
24 increases.

25 MR. POLLOCK: But you were in the same  
26 position as if you negotiated a two-year agreement and  
27 then don't provide for an escalation in the second  
28 year of the agreement.

29 MR. HEARN: We had never done that, so  
30 I can't speak with authority on that question. I think



1 there are some unions who have done it. I believe  
2 there would be some, but we have never faced that  
3 situation.

4 THE COMMISSIONER: But it is not a  
5 difficult situation to envisage.

6 MR. HEARN: No, but we have no personal  
7 experience with it because every two or three years  
8 in the agreement we negotiate as a built-in agreement  
9 as of the annual date of the agreement or more often  
10 than that.

11 At Meaford it was a first agreement with  
12 no retroactive pay.

13 MR. POLLOCK: How long did the negotiations  
14 take?

15 MR. MITCHELL: The certification was,  
16 I think it was 10 or 11 months from the date of  
17 certification and the award being handed down.

18 MR. HEARN: They were certified in  
19 January and the agreement was concluded in November.  
20 Now, the Victoria Hospital --- this is the second  
21 arbitration we are speaking of now ---

22 MR. MITCHELL: And it expired on October  
23 12th, 1966, and the award was made this week in April,  
24 1967, and there was full retroactivity and the parties  
25 had previously agreed to a two-year term dating from  
26 the date of expiry of the previous collective  
27 agreement. We had agreed on this and this wasn't an  
28 item that went to arbitration.

29 MR. HEARN: So in this case the  
30 arbitration board was faced with the situation that



1 they were instructed by the parties that there was to  
2 be retroactive pay all the way back and this again,  
3 sir, if I may interrupt you for a moment, this again  
4 brings out the point which his honour raised earlier  
5 of the ability of a hospital to go into a previous  
6 year and pick up benefits which they negotiated and  
7 here is a case where it was done right now in April  
8 of this year for October of last year.

9 MR. POLLOCK: The first Victoria agreement  
10 was that a new agreement situation?

11 MR. HEARN: No, it was not. That agreement  
12 had been in existence since 1951.

13 MR. POLLOCK: When the first one was  
14 arrived at after 10 months of fully retroactive, and  
15 how long did it project into the future?

16 MR. HEARN: For one year, from October,  
17 1965 to October, 1966.

18 MR. POLLOCK: So you had a one-year  
19 agreement and it took you another year.

20 MR. HEARN: No, it took us from October  
21 of last year to April of this year. That is in the  
22 second case it was seven months. It will run two  
23 years from last October and will expire in October  
24 of 1968.

25 MR. POLLOCK: Well, when it was signed  
26 it had 17 months to run.

27 MR. HEARN: Yes, roughly. With regard to  
28 Stevenson Memorial Hospital we are still waiting on a  
29 decision, so we don't know what the detail will be  
30 there. We were certified there very early in 1966.



1                               From Parkwood Hospital we just have a  
2 decision now.

3                               MR. MITCHELL: The expiry date was  
4 August 12, 1966, and there were two awards, an award  
5 and a supplementary award made and the new collective  
6 agreement was executed March 31st, 1967 to project  
7 for one year from that date. The wage increases were  
8 12% across the board which in effect meant wages  
9 increases from 23 to \$35 a month for each employee,  
10 but the retroactive settlement was \$20 per month  
11 which was less than the wage increase. So in effect  
12 it was a 19-1/2-month agreement.

13                              MR. POLLOCK: Well, that was for the full  
14 period for a limited amount then.

15                              MR. HEARN: The award reads as follows:

16                              "In the light of the wage increases  
17 already awarded by this board to  
18 members of the bargaining unit does  
19 not feel that this is a case for  
20 granting full retroactivity of such  
21 wage increases to the date of the  
22 expiration of the collective  
23 agreement. This board feels that  
24 justice will be done if all employees  
25 on the payroll of the hospital as  
26 of the date of the collective  
27 agreement is executed and who have  
28 been continuously so employed since  
29 the 12th of August, 1966, receive  
30 retroactive pay at the rate of \$20



1 per month for such period and it so  
2 awards".

3 MR. MITCHELL: Norfolk General Hospital  
4 was a first agreement and the award was made this  
5 week.

6 MR. HEARN: The certification date would  
7 be September of last year, that is 1966.

8 MR. MITCHELL: And the award was made this  
9 week.

10 MR. HEARN: Was it retroactive?

11 MR. MITCHELL: There was agreement of  
12 the parties that there be retroactive pay back to  
13 December 1st, 1966. This was the agreement of parties.

14 THE COMMISSIONER: Is it your view that  
15 the future necessitates an annual increase in wages?

16 MR. HEARN: No, and I think the parties  
17 have to look at this as they negotiate in the future  
18 from time to time. We do say, however, sir, that the  
19 wage levels of hospital employees are such that it is  
20 going to either require a very fast impetus in growth  
21 of hospital earnings or it is going to necessitate  
22 annual increases for some time to come to bring these  
23 people into a respectable living wage.

24 THE COMMISSIONER: How do you estimate  
25 that respectable living wage?

26 MR. HEARN: The average wage in a hospital  
27 will be to \$63 to \$65 per week. Now, that is perhaps  
28 two-thirds of the provincial average and we say that  
29 that is not respectability. When our federal government  
30 says poverty is \$3,000 a year and the average



hospital worker is one line above poverty then it is not very respectable to be one line above poverty. You can have respect or self-respect and be in poverty, but it doesn't give you respectability in the community. I don't think that self-respect necessarily gives you community respect.

THE COMMISSIONER: I thought that might be one of the elements involved.

MR. HEARN: I would hope that the person living in the community would have a great deal of self-respect, but many ideas would look down on him because he is in a poor position where he can't elevate himself.

THE COMMISSIONER: Well, I would say that is unfortunate for the community.

---Short recess.

MR. POLLOCK: In looking through the record so far of retroactivity really the only complaint that you have is in the first agreement situations. There have been considerable retroactive awards under the legislation.

MR. HEARN: There is only one point on retroactivity, Mr. Pollock, that I would like to touch on and that is again the indecisiveness of the chairmen on these boards who really don't seem to interpret Sections 7, subsection 8 (a) and (b) as we interpret it. And there is always a big question before them and an argument before them as to whether



1 or not (a) and (b) really give them the necessary  
2 latitude to recommend retroactivity. It is for that  
3 reason that we are taking the position in this  
4 submission to you today and to the Commissioner today  
5 that we think the clearest way to define this whole  
6 area is to introduce the same principles that apply  
7 with the policemen and firemen, and in those cases  
8 first of all under the Firemen's Act it clearly  
9 brings out and we mention this on the bottom of page  
10 20 and the top of page 21: "An agreement decision or  
11 award has effect upon the first day of the fiscal  
12 period in respect of which the council of the  
13 municipality may include provision in its estimates  
14 for any expenditures incurred in the agreement,  
15 decision or award, whether such day is before or  
16 after the date of the agreement, decision or award,  
17 unless another day is named in the agreement,  
18 decision or award ". Now, we think that that is  
19 the only fair way to deal with it, that the  
20 legislation should be clear. The Policemen's Act  
21 has similar provisions: "The board of arbitration  
22 or an arbitrator, as the case may be, shall commence  
23 the proceedings within thirty days after it is  
24 constituted", and

25 "Every agreement, decision or award  
26 remains in effect until the end of the  
27 year in which it comes into effect  
28 and thereafter remains in effect  
29 until replaced by a new agreement,  
30 decision or award".



1                   The Act in Sections 7 and 8 seems to  
2 clearly indicate or the subsections, I am sorry, they  
3 seem to clearly indicate that the intention of this  
4 Act is that the parties should not be bound for more  
5 than a one-year period.

6                   THE COMMISSIONER: Well, what do you  
7 think about this?

8                   MR. HEARN: One year from the date of the  
9 agreement is executed. One year from the day the  
10 agreement is executed.

11                  THE COMMISSIONER: Well, you have been  
12 negotiating pretty nearly all the time, haven't you?

13                  MR. HEARN: No, there are cases we cited  
14 this morning where the parties have agreed to two-  
15 year agreements under arbitration. The parties have  
16 that right to extend the agreement.

17                  THE COMMISSIONER: Well, what is the  
18 tendency?

19                  MR. HEARN: The tendency is, sir, to a  
20 one-year agreement in the arbitration proceedings  
21 because they have been first agreements in the main.

22                  THE COMMISSIONER: Well, that is one year  
23 and it will continue until it is changed.

24                  MR. HEARN: Yes, and the difficulty is  
25 that if you don't get retroactivity under Section 7,  
26 subsection 8, then you wind up or even if you do get  
27 retroactivity you wind up with a 20-month, 21-month  
28 or 24-month agreement.

29                  THE COMMISSIONER: It might be, but at the  
30 expiration of that year the conditions have not



1 changed at all from the time when that was negotiated  
2 and you don't ask for a new agreement because you  
3 don't think that such a change is justified.

4 That goes on until, say, in the course  
5 of a year or at the end of another year you will say,  
6 "Well, conditions have changed and we want a new  
7 agreement". But in that case there would be no  
8 justification for retroactivity.

9 MR. HEARN: No, but if you extend the  
10 agreement in the period when there was no  
11 justification and assuming that it was not justifica-  
12 tion, you would extend it under the terms of the  
13 Labour Relations Act for another year. It becomes  
14 then a one-year tranferal over and then you could not  
15 go retroactive beyond the commencement of the  
16 following year of the agreement.

17 THE COMMISSIONER: But I was assuming  
18 that this continues automatically at the end of the  
19 year until some step is taken to negotiate a new one.

20 MR. HEARN: That is right.

21 THE COMMISSIONER: Well, why not take it,  
22 I was going to say, from the time when you ask for new  
23 negotiations, but you could ask for new negotiations  
24 at the end of the first year and take it from a  
25 different time to negotiate because when you are  
26 waiting for conditions to change, but at the same time  
27 you could make it retroactive.

28 MR. HEARN: Well, you pose two questions,  
29 sir. One is if the economic conditions were such that  
30 you don't open an agreement. In this case the majority



1 of agreements provide for a term of agreement and  
2 they also provide that unless either party notifies  
3 of amendments the agreement will automatically renew  
4 itself for one more year.

5 THE COMMISSIONER: Well, they do that,  
6 don't they?

7 MR. HEARN: Yes, they do.

8 MR. POLLOCK:  
9 I wasn't assuming that, I was assuming this from day  
10 to day.

11 MR. HEARN: No, they go from year to year  
12 and the Labour Relations Act also provides this.

13 MR. POLLOCK: They go from year to year  
14 unless there is notice given to negotiate a new one.

15 MR. HEARN: That is right, and if the  
16 parties feel there is no need to negotiate a new  
17 agreement, then it is automatically renewed for one  
18 more year.

19 THE COMMISSIONER: Well, of course, it  
20 could be nullified by giving notice right away and  
21 then allowing it to go along and being  
22 different to conclusion.

23 MR. HEARN: No, sir. The Labour Relations  
24 Act provides that if notice is given and no action  
25 is taken within a specified period of time that either  
26 side can either apply for conciliation and in fact  
27 there is provision for decertification where the  
28 union is wilfully dragging its feet.

29 THE COMMISSIONER: Yes, but I am assuming  
30 that either party is anxious to go on in this first



1 year and it just goes along, although you have given  
2 notice.

3 MR. POLLOCK: Substantially in the  
4 circumstances that you have a renewal situation and  
5 you give your notice and you negotiate in good faith  
6 and if the chairman awards retroactivity back to when  
7 the notice was given, substantially your position has  
8 not been affected.

9 MR. HEARN: If he gives retroactivity to  
10 the date of expiry. He could give it to the date of  
11 notice.

12 MR. POLLOCK: That is right then. Then  
13 the monetary considerations on it if he gives  
14 retroactivity you aren't in any worse position by this  
15 delay of ten minutes or whatever it is to negotiate.

16 MR. HEARN: That is right.

17 MR. POLLOCK: And from your experience  
18 that you have had there has been generally a policy  
19 of retroactivity.

20 MR. HEARN: To some degree.

21 MR. POLLOCK: So that the employer really  
22 doesn't have or receive any monetary benefit from  
23 delaying.

24 MR. HEARN: Well, that depends. In the  
25 case of the Dufferin Area there was a very substantial  
26 monetary saving to the employer because he was quite  
27 willing to pay certain rates from January and he  
28 didn't have to pay them until November.

29 MR. POLLOCK: But the retroactivity hangs  
30 over his head and if there is some reasonable chance



1 that the contracts will be retroactive and particularly  
2 if it can be demonstrated that he has been engaged in  
3 a policy of delay, then he doesn't benefit from it.  
4 He doesn't benefit and you don't lose anything from  
5 it if they give the retroactivity and it also assures  
6 that the union negotiates in good faith and I am not  
7 suggesting that that is the only factor that  
8 determines whether you are going to negotiate in good  
9 faith or not, but I am saying that some unions may  
10 feel that they have got nothing to lose and they can  
11 try and negotiate forever and forever and to try and  
12 get a better deal and they are going to get  
13 retroactivity anyway, so they have to give it back  
14 to them anyway, so they are not going to lose anything.  
15 So the unknown factor or discretion factor preserves  
16 this feeling of "Well, let's try and work out an  
17 agreement" under the same pressures almost that you  
18 would have under an ordinary circumstance.

19 MR. HEARN: Of course, the same presumption  
20 that you make there existed prior to the introduction  
21 of the arbitration Bill. The assumption was that  
22 if there was arbitration everybody would run to  
23 arbitration and everybody would negotiate. But this  
24 has not been the experience.

25 MR. POLLOCK: I was going to ask you about  
26 that. How many agreements have you negotiated in the  
27 absence or by yourselves without reference to  
28 arbitration?

29 MR. HEARN: About 10% go to arbitration.

30 MR. POLLOCK: That is about 10%. Now, do



1 you have a figure? I hate to figure in percentages.

2 MR. HEARN: In the length of time we  
3 were talking about here ~~the~~ examples given you we  
4 have probably negotiated 50 or 60 collective  
5 agreements.

6 MR. POLLOCK: Well, you have 11 cases going  
7 to arbitration.

8 MR. HEARN: Yes, but of those 11 remember  
9 that four were commenced before the Bill started, the  
10 negotiations were in the hopper before Bill 41 became  
11 a reality. So since the Bill became a reality there  
12 have been only seven cases gone to arbitration in  
13 that sense of the word.

14 MR. POLLOCK: So you are having some  
15 success negotiating outside the award.

16 MR. HEARN: Far more success than we  
17 ever had before.

18 MR. POLLOCK: So that it hasn't,...  
19 reference to compulsory arbitration  
20 hasn't sterilized the bargaining atmosphere.

21 MR. HEARN: Far from it.

22 MR. POLLOCK: Then why do you suggest that  
23 is the case?

24 MR. HEARN: Well, from talking to the  
25 people that we deal with the attitude is that we don't  
26 want other people telling us what to do. We want to  
27 sit here and decide our own fate and we are quite  
28 willing to do that on a reasonable basis if the  
29 union will come across and be reasonable with us.

30 MR. POLLOCK: Inherent in that position



1 is that the arbitration boards haven't always been  
2 coming down on the side of the company.

3 MR. HEARN: That is right.

4 MR. POLLOCK: So that if that had been  
5 their experience they would say, "Well, we would much  
6 rather take the arbitration board awards".

7 MR. HEARN: I can't say that because I  
8 can't speak for them on that kind of an assumption.

9 THE COMMISSIONER: But the fact is that  
10 you don't go to arbitration until you have  
11 demonstrated that you can't come to an agreement.

12 MR. HEARN: That is right.

13 THE COMMISSIONER: So I must say it doesn't  
14 impress me very much to say that we don't want other  
15 people impressing their judgments on us.

16 The simple fact is that you  
17 are not or you can't come to a position where you  
18 impose your own judgment upon yourselves.

19 MR. HEARN: That is true, unless you take  
20 a case of the Wellesley Hospital and Trenton and  
21 there are two outstanding examples today that are  
22 pending where the Wellesley Hospital have just plain  
23 said, "We do not want to make a decision, we want  
24 someone else to make our decision for us".

25 MR. POLLOCK: But I think somebody  
26 suggested that there are "political reasons" that  
27 they have to justify it from some funding source that  
28 it is better to have a judge say that that is what  
29 I think is fair than to have any question of how much  
30 better price you could have got.



1  
2 MR. HEARN: Except that every other  
3 hospital gets its money from the same source  
4 politically and they are operating under the same  
5 political atmosphere, so why should one single them-  
6 selves out and be afraid of this political body when  
7 they others aren't?

8 MR. POLLOCK: Because all don't demonstrate  
9 or have the same amounts of courage, I suppose.

10 MR. HEARN: You are right.

11 THE COMMISSIONER: But we could easily  
12 mention cases where that isn't the reason at all  
13 because you have no moral standards by which you can  
14 determine these questions. You have a rough  
15 approximation of what other people receive, but when  
16 you come down to analyze it and say what are the  
17 criteria by which we will determine what A should  
18 get more than B or C or D or E, you are lost. There is  
19 nothing except the influence largely of personalities,  
20 among other things. I wouldn't say that is all,  
21 but it is an external standard and if you fixed first  
22 your standard of living, and then you can measure  
23 in real economic measurements and terms what is  
24 necessary to maintain that level, but if you start at  
25 the other end and say how much should be given for  
26 this kind of service; we have asked in vain for the  
27 suggestion of factors which we could use in an  
28 economic sense of determining amounts.

29 MR. HEARN: I would suggest, sir, that  
30 on the free enterprise system which we know, there is  
really no basic standard of measurement for pricing



1 either a product or for placing a value on a man's  
2 head or a woman's head for services rendered.

3 THE COMMISSIONER: Only in the battle  
4 that is fought, and that which the traffic will bear  
5 is the principle and we are seeing that also in other  
6 features of our society that are developed, that that  
7 becomes an example/<sup>of</sup>what monopolistic interests will  
8 dictate. You can't single those out from your general  
9 push forward of your whole society and that society  
10 is increasingly creating monopoly.

11 MR. HEARN: And our society is also  
12 increasingly being dictated to by a very minority  
13 group of industry.

14 THE COMMISSIONER: Yes, and in some cases  
15 by a minority group of labour.

16 MR. HEARN: That may be true.

17 THE COMMISSIONER: So if you look at  
18 society as a whole you will see the development of  
19 these factors which cannot disregard it in any  
20 attempt to distribute what you might call the total  
21 production of society. I don't know of anything more  
22 difficult than to determine that because we are all  
23 becoming more self-conscious and we are all  
24 comparing ourselves with other people in relation to  
25 status symbols and all of that nonsense, but we are  
26 doing it. We seem to be victimized by it and yet we  
27 have no clear means of settling upon another scale of  
28 values.

29 MR. HEARN: In any event, and I don't  
30 know how long you desire to continue.



1 THE COMMISSIONER: Well, the only other  
2 thing I was going to ask is that you think or did you  
3 have anything to do with suggesting that one year  
4 should be laid out?

5 MR. HEARN: Yes, we think the basic  
6 principles of the Policemen and Firemen's Act whereby  
7 renewal agreements the Act provides that they shall  
8 start ....

9 THE COMMISSIONER: I can see that, but I  
10 mean the period during which, it says one year.

11 MR. HEARN: It says unless the parties  
12 agree to more than one year.

13 THE COMMISSIONER: But the majority of  
14 agreements, they extend over one year, don't they?

15 MR. HEARN: It depends entirely on the  
16 industry, sir.

17 THE COMMISSIONER: But why should you  
18 have one year and an ordinary industry have three  
19 years or two years?

20 MR. HEARN: If you can voluntarily give  
21 in to an agreement and I don't know of any voluntary  
22 agreement that we have negotiated, there may be one  
23 and it was a one-year contract.

24 THE COMMISSIONER: But it shows that  
25 you don't need the one-year contract.

26 MR. HEARN: But the vast majority of our  
27 contracts are for two years and some three-year  
28 agreements.

29 THE COMMISSIONER: Then what would be  
30 the objection to having a contract for two years instead



1 of one under the statute?

2 MR. HEARN: Because of the lack of the  
3 knowledge in many cases of the personnel in  
4 arbitration boards to set the pattern for long-term  
5 bargaining. And if the Act envisaged as it does a  
6 one-year agreement, why should that same legislation  
7 impose a 20 or 22 or 24-month agreement under those  
8 circumstances?

9 THE COMMISSIONER: The only reason that I  
10 see is that normally you are not subject to such a  
11 violent change in the processes with which you are  
12 concerned as to require almost a monthly examination  
13 of your share or of your return for what you do?

14 MR. HEARN: That is true, sir, but on the  
15 other hand, if you take the experience of this  
16 organization over the last three years we were  
17 entering into two and three-year agreements in 1965  
18 or in 1964 and 1965, and we were trapped very, very  
19 badly.

20 THE COMMISSIONER: By what means?

21 MR. HEARN: By the spiralling costs in  
22 1965 and 1966.

23 THE COMMISSIONER: But you weren't any  
24 worse off than the majority.

25

26

27

28

29

30



1 MR. HEARN: I think you might if you  
2 thought of the terms built into those  
3 contracts over the time. In fact, in many cases  
4 employers have agreed with us that the employees  
5 should fall so far behind that they are open to  
6 agreement and give interim wage increases because  
7 they realize the trap is so deep.

8 THE COMMISSIONER: That may be in a  
9 particular industry or not industry, but a particular  
10 occupation such as the hospital where it seems to be  
11 clear that the wages given were unreasonably low.  
12 Now, I can understand that, but I think that that  
13 on that basis you should already in the last three  
14 or four years have pretty well closed that gap.

15 MR. HEARN: Far from it, sir, far from  
16 closing that gap.

17 THE COMMISSIONER: Well, that is about all  
18 that can be said about it.

19 MR. HEARN: Many of the increases that  
20 we have received in the past six months in those  
21 in Toronto have been more than wiped out with the  
22 food pricing and transportation costs to go to and  
23 from work. Those two items alone have wiped out that  
24 increase that was given.

25 MR. POLLOCK: Somewhere in this book  
26 that I have here and I can't dig it up at the moment  
27 is the Carrothers study, there is some evidence that  
28 there is a trend to longer and longer agreements, three  
29 years and two years, and three-year agreements are  
30 becoming more of a standard than two-year contracts



1 were a few years ago. In the last year or so there  
2 has been a trend or at least a feeling to return  
3 to the short agreements. But the reason is not so much  
4 --- the reason advanced is not so much wages as the  
5 closed period where technology can advance or pass you  
6 by and then you can be out of a job by automation  
7 and not have any grievance or strike power available  
8 to you for a year or two and a half years.  
9

10 THE COMMISSIONER: But you are not so  
11 greatly affected by such possible changes, are you?

12 MR. HEARN: Sir, contrary to public  
13 opinion the service industry was the first and hardest  
14 hit industry in automation and technical changes  
15 of any group of workers in our society. And I offer  
16 you this as evidence of that fact.

17 THE COMMISSIONER: Let us apply it to  
18 the hospital. Now, what fundamental changes have taken  
19 place that affected those whom you represent?

20 MR. HEARN: But you cannot isolate the  
21 technical changes thoroughly to hospitals. You have  
22 got to isolate it to the service industry. Now, take  
23 the service industry. Do you realize that over 60,000  
24 jobs have been wiped out or lost to the automatic  
25 elevator.

26 THE COMMISSIONER: I daresay that a great  
27 many have lost that and that includes the United  
28 States.

29 MR. HEARN: That is right and 60,000 is  
30 the estimated number from 1957 to 1965.



1  
2 THE COMMISSIONER: Do you know any of the  
3 reasons for that?

4 MR. HEARN: Yes, we have some idea of the  
5 reasons for it. But these were jobs that were filled  
6 by people who war veterans, amputees, people who were  
7 burnt out in industry, silicosis cases from welding,  
8 but they could do an acceptable day's work on an  
9 elevator of taking people to and from their  
10 designated points in a building. These jobs have been  
11 lost in our society and these people are difficult  
12 to retrain and they have become a charge upon our  
13 society.

14 THE COMMISSIONER: Well, it was to some  
15 extent, I am given to understand, hastened by the fact  
16 that the strike more or less paralyzed the means of  
17 transportation, if you could call it, that was very  
18 important. Did they have an opportunity to agree  
19 to an arbitration?

20 MR. HEARN: The interesting thing you  
21 referred to, sir, is the strike there in the Empire  
22 State Building in the late thirties about 1939 or 1940.  
23 And it is most interesting to note this, that this is  
24 supposed to be what caused this rapid transfer to  
25 automatic elevators from the manually-operated  
26 elevators. Yet the building that caused all of this  
27 rapid changeover until a year ago and to some extent  
28 today is still operated by manually-controlled  
29 elevators.

30 THE COMMISSIONER: I suppose the cost of  
substituting the automatic is so great in such a huge



1 building as to nullify any benefit, is that so?

2 MR. HEARN: Yes, and in cities like  
3 Toronto when the conversion took place from 25 cycle  
4 to 60 cycle and the Hydro were willing to bear a part  
5 of the cost of the conversion this expedited and  
6 complemented a speedup on the changeover from manual  
7 to automatic cars, because it could be borne in the  
8 expense of a changeover from 25 to 60 cycle, and this  
9 expedited a quicker transfer over from one to the  
10 other. I would daresay that many of our older  
11 buildings may never have gone over to the automatic  
12 elevator if it hadn't been for that opportunity of  
13 the conversion factor with Hydro.

14 MR. POLLOCK: I suppose one of the other  
15 inherent advantages of having an operator is that  
16 he can boost you through a hole if the elevator stops.

17 MR. HEARN: Yes, and he can control  
18 in case of an emergency.

19 MR. POLLOCK: But I suppose those are  
20 overshadowed by the economic advantages.

21 MR. HEARN: There is no doubt of the  
22 economic advantages and efficiency. I would like  
23 to say speed, but this building has belied it  
24 this morning on the question of speed of automatic  
25 elevators. It has improved the general movement of  
26 traffic and has tended to speed it up and it has to be  
27 in our society where there are so many more people  
28 working in vast concentrated areas. These vastly  
29 concentrated areas of downtown buildings today, the  
30 traffic has to be moved in and out just as quickly



1 as it can possibly be done. It is done much more  
2 quickly and expeditiously by automatic elevators than  
3 can be done <sup>by</sup>/manually driven cars.

4 But the point I make is that the service industry has  
5 suffered tremendously by some automation and this the  
6 people don't see and they don't think of this question  
7 of vertical transportation.

8 MR. POLLOCK: I suppose too in the  
9 particular area of the hospital the development of  
10 floor washing machines and those kind of things has  
11 had some effect on the old bucket and mop brigade.

12 MR. HEARN: In your whole area of service  
13 operation and particularly in hospitals where the need  
14 for the reduction of bacterial count and keeping  
15 down of the germicidal process and so on, this whole  
16 area has been so changed in the last five or six  
17 years and is constantly going through this change  
18 that it is difficult to keep pace with it. For  
19 example, the disposable items that are used today  
20 that five years ago weren't even conceived or thought  
21 of.

22 THE COMMISSIONER: Well, can you  
23 illustrate that?

24 MR. HEARN: Surgical needles. Doctors  
25 used to use them and we had employees who did nothing  
26 but spend their day sharpening needles. Then  
27 sterilizing these needles and sterilizing the suction  
28 tube that went with the needle. That is disposed of  
29 today. The needle is a disposable needle and it is  
30 used once and thrown away. Disposable garments are



1 being used now in operating rooms. They are  
2 experimenting now with the use of paper products for  
3 gowns and sheets and patient coverings and this  
4 phase of this nature that be used once and disposed of.

5 THE COMMISSIONER: Have you ever examined  
6 the economics of that?

7 MR. HEARN: No, sir. It is not being  
8 used at the moment on a broad enough basis to examine  
9 the economics of the disposal unit. It is being  
10 tested at the present time, but the companies  
11 undoubtedly shortly are going to release reports on  
12 the economies that can be brought, about in this  
13 direction. But these are the things that are happening.  
14 Disposable food containers that were not used before.  
15 You use them once and throw them away.

16 MR. POLLOCK: Judging from your  
17 commentary this morning and from your brief your  
18 experience with arbitration has been a reasonably  
19 happy one. I wondered if you could give us the  
20 benefit of your observations based on your experience  
21 in other areas outside the hospital field and the  
22 differences, if there are any, between ordinary non-  
23 hospital areas and the hospital arbitration or the  
24 hospital field. Whether there are any reasons that  
25 would show that it works in the hospital field and  
26 not anywhere else, or whether you can project your  
27 experience into the other fields.

28 MR. HEARN: It would be most difficult,  
29 sir, for us to project our experiences into broad  
30 areas other than hospitals. Our organization is



1 concentrated in this hospital field in Ontario and  
2 across Canada. Of course, we have not been lax to  
3 the service industry of hospital buildings and  
4 schools and colleges and places of this nature. We  
5 don't see a need for arbitration in places like  
6 office buildings and schools and colleges and other  
7 public buildings because we feel that the normal  
8 process of bargaining with its normal pressures and  
9 balances and culture balances very well takes care of  
10 the situation.

11 MR. POLLOCK: I am not so much concerned  
12 with the question of need as to your answer based on  
13 your experience to the same objections that were made  
14 by other people and I don't know, perhaps by yourself  
15 to compulsory arbitration in the effect that it has  
16 on negotiations in the inability of third parties to  
17 appreciate the situation and give both sides an  
18 adequate hearing.

19 MR. HEARN: Well, if I were to say the  
20 experience of arbitration has been a happy one, some  
21 of my colleagues might find room to argue with me.  
22 I think the experience of arbitration has been a  
23 satisfactory one.

24 MR. POLLOCK: But it hasn't been  
25 disastrous.

26 THE COMMISSIONER: This one thing  
27 that you have introduced that you are really not afraid  
28 of the word.

29 MR. HEARN: That is right. As our brief  
30 has indicated, sir, from 1957 to 1965 and long before



1 1957, we were maverick enough to advocate compulsory  
2 arbitration in the hospital area.

3 THE COMMISSIONER: Well, I think that  
4 was proper recognition of a public need.

5 MR. HEARN: But we became so frustrated  
6 from the fact that we could get no one to listen to  
7 us and we could get no one to understand this problem  
8 that we just took the bull by the horns in 1965 and  
9 said, "Okay, if you are not going to go with us, then  
10 we are going to go all out the other way and we have  
11 got to get recognition for these people".

12 THE COMMISSIONER: Have you given any  
13 consideration to the mode or method of training for  
14 arbitration functions?

15 MR. HEARN: Yes, sir. We have said in  
16 this brief that we feel and we have felt for a long  
17 time a real concern about the question of specific  
18 chairmen on arbitration boards and for that matter  
19 this could even be funnelled down to the nominees  
20 on an arbitration board.

21 MR. POLLOCK: Can I ask you what function  
22 you think the nominees perform on the arbitration  
23 board that can't be handled only by the chairman?

24 MR. HEARN: I think they perform the  
25 function of keeping the balance where a chairman may  
26 be lacking a point of understanding, but they can  
27 follow through on a point of understanding.

28 THE COMMISSIONER: But couldn't they be  
29 trained to that as independent thinkers?

30 MR. HEARN: Yes, I would presume that the



1 chairmen could be trained.

2 THE COMMISSIONER: But I mean the whole  
3 three. Say you have a board of three. Have you ever  
4 considered the training of minds in being able to  
5 view these questions from any point of view and not  
6 merely limited direction that is dictated by an  
7 interest?

8 MR. HEARN: No, I don't for a moment, sir,  
9 want to infer that we believe a nominee on an  
10 arbitration board has to represent only a selfish  
11 interest of the side he is sitting for.

12 THE COMMISSIONER: But I think that is  
13 one aspect of it.

14 MR. HEARN: I think any person sitting on  
15 an arbitration board has to be big enough within one's  
16 self to rise to the occasion for that and be able  
17 to see what are the facts of the situation and to  
18 develop a decision based on those facts and not on a  
19 selfish one-sided interest.

20 THE COMMISSIONER: But my question is can  
21 you train that or bring about that sort of rounded  
22 ability to view things from many perspectives?

23 MR. HEARN: Yes, sir, I believe you can.

24 ~~THE~~ COMMISSIONER: Where would you do it?

25 MR. HEARN: I believe it can be done in  
26 three ways. I believe it can be done through persons  
27 acting as understudies on arbitration or conciliation  
28 boards. I think this group of people that could be  
29 and we believe right now should be selected to train  
30 for this program, could be given evening session



1 courses at universities and meet with the economists,  
2 the statisticians and the other people involved, to  
3 lawyers that need to interpret and bring the  
4 interpretation of the law to arbitrated matters, and  
5 if these people could study for a period of perhaps  
6 six months or a year on the basis of one or two or  
7 three evenings a week if the need be, in order to  
8 educate themselves to the point of being able to  
9 sit in an unbiased position and to view all of the  
10 facts before them and to render a fair and equitable  
11 decision based on the facts that are presented.

12 THE COMMISSIONER: I agree with that  
13 entirely, and I think that is sound. It seems to me  
14 that advancing technology and in our advancing  
15 technology that something like that is vital.

16 MR. HEARN: We sat before a Select  
17 Committee in 1957 and we quoted this in our brief  
18 that that was our position. We think in industrial  
19 areas such as Toronto serving southern Ontario that  
20 this hurt, that the University of Toronto and in fact  
21 the Ontario Labour Department is remiss if they do  
22 not create such <sup>a</sup> training program in view of the fact  
23 now and I didn't want to come this far ahead, but  
24 since we are here we might as well initially put this  
25 point in. Now that the judges are almost taking the  
26 position that they will not sit on arbitration boards  
27 now ---

28 THE COMMISSIONER: Well, they have really  
29 been forbidden to.

30 MR. HEARN: Under the new Judges' Act, that



1 is correct, and because of that we now face a vacuum  
2 that our organization predicted in 1957 would happen,  
3 and there are not sufficient people available today  
4 who are qualified and competent to deal with the  
5 arbitration matters that they are going to be facing  
6 in the next 12 or 15 months until we can develop  
7 qualified and competent people.

8 THE COMMISSIONER: Well, that may be  
9 quite the case, but there is no doubt in my mind that  
10 you can train human minds by actual experience on a  
11 board in a number of cases where they are associated  
12 together that it has a coercive influence in destroying  
13 narrow views and limited perspective and it is  
14 rather interesting that in Australia in many cases  
15 they found now that the employer will select one who  
16 has come up through the labour ranks, and the labour  
17 men will select one who has come from the employer  
18 rank. There is a training in the office itself which,  
19 given the capacity of the individual to grow, succeeds  
20 in enabling him to realize his potentialities.

21 MR. HEARN: Well, sir, I would say that  
22 with due respect we don't have to go as far as  
23 Australia to find that situation. You have it right  
24 here in the Province of Ontario. If you look at Mr.  
25 Richard Geddes who is now a professional chairman of  
26 conciliation and arbitration boards. If you look at  
27 Mr. Trevor Smith who is now a chairman professionally  
28 of arbitration and conciliation boards. Mr. Geddes  
29 comes out of the Oil, Atomic and Chemicalworkers'  
30 Union and Mr. Trevor Smith gets his background from



the Teamsters' Union and yet many cases employers would suggest those two names before many others.

THE COMMISSIONER: And that is exactly what I had in mind and I am glad to have it.

MR. HEARN: An evolution has taken place right here in our own province.

THE COMMISSIONER: Because those man had the original capacity to do it.

MR. HEARN: Right, and we should be developing more of these people, as we said in our brief, and we believe that the provincial government should get the labour movement to say "We are going to look at management's side of the fence and select 15 or 20 people from that side of the fence so that we have confidence in them and with training they can do the job, and from management's side we are going to pick 15 or 20 labour leaders that they feel they can be confident in", and this would be the initial group that would meet in this university session class and understudy arbitration boards and mingle with this close confinement of arbitration and conciliation board work in order to broaden their views and then you would have a very able panel from which to draw not only chairmen but nominees.

THE COMMISSIONER: Well, that brings these questions down to what they really are. Social questions of the utmost importance. You are in a society and anything that is imposed on that society must be consistent with the basic ideas underlying that society.



1 MR. HEARN: The things that we create  
2 become the things that govern us and finally ---

3 THE COMMISSIONER: Well, this certainly  
4 influences us.

5 MR. POLLOCK: Well, let me get back to  
6 the question of the side men. You mentioned bringing  
7 experience to the arbitration tribunal. Now, there  
8 is a distinction to be drawn, I think, between side  
9 men in the conciliation board and in an arbitration  
10 board, where the different techniques are employed,  
11 and I think probably the bowers or whatever you call  
12 them in the conciliation tribunal act as counsel  
13 in some ways and you get their views and express it  
14 to some people. I don't know whether that really  
15 necessarily functions in the arbitration tribunals  
16 where one man's decision virtually governs, it  
17 follows the trend of the nominees votes for whole  
18 points.

19 MR. HEARN: Yes, in the absence of a  
20 majority decision the decision of the chairman should  
21 be final and binding on the parties and it becomes  
22 a one-man decision.

23 MR. POLLOCK: It becomes a one-man  
24 decision because in most cases he gets someone to  
25 side with him, even if it is the left for one point  
26 and the right for another, he always winds up with  
27 two.

28 THE COMMISSIONER: But with men trained  
29 as you have suggested it seems to me to be something  
30 that is demanded. You wouldn't or can't speculate upon



1 action of that sort. Each man would be independent  
2 in his judgment and he will contribute to the total  
3 exchange there.

4 MR. HEARN: I think, sir, for the reason  
5 that I in our democratic society would not feel near  
6 as comfortable in an appeal court of one judge as  
7 I would feel in an appeal court of three, because all  
8 of us are subject to human failings and error and I  
9 think the importance of a three-man tribunal is to  
10 maintain the strength of the variation of minds well  
11 trained and disciplined in the area of labour relations,  
12 to be certain that the decision which is being brought  
13 down is the right decision and not left entirely to  
14 one man to say that that is right or wrong in the  
15 final analysis, although in many cases that does  
16 become the fact, I realize it.

17 MR. POLLOCK: But that could be satisfied  
18 by having a three-man board, but not appointed one by  
19 each side. If you want to have a three-man board,  
20 then have a three-man board appointed.

21 MR. HEARN: That is fine, I don't care how  
22 they are appointed, and if you take our suggestion or  
23 if somebody took our suggestion of training people from  
24 both sides because I am sure I have been moving in the  
25 ranks of labour, as you well know, for well over 20  
26 years and I have found in many, many occasions that  
27 management people will say to us, "We would take that  
28 man from the labour side on a board of arbitration any  
29 day in the week", and I have heard labour leaders say  
30 they would take people from management any day of the



1 week. And if those minds could be brought together  
2 I don't think you need the sidesmen in the sense of  
3 the word. I think you can have a three-man tribunal  
4 appointed or agreed upon, all three agreed upon or  
5 all three appointed to deal with the matter. But I  
6 do think and this organization believes and feels  
7 and has felt for the last 10 years and more that there  
8 is a very substantial lack of qualified competent  
9 people to do this work and if we don't shortly have  
10 action from the government in this direction  
11 industrial relations is going to into chaos in many  
12 areas as a result of it.

13 MR. POLLOCK: We caused you to jump a  
14 little bit in your presentation and you can revert  
15 back to the orderly presentation that you embarked  
16 on originally.

17 MR. HEARN: Well, I think we made our  
18 position clear on the question of retroactivity, but  
19 we think that an examination of the Policemen and  
20 Firemen Act, if there is to be arbitration at all,  
21 that that is a good guideline as a basis to follow  
22 in regard to the trend of agreement in matters of  
23 retroactivity. The remaining points we want to  
24 touch on are those questions dealing with sub-changes  
25 in the Labour Relations Act. Firstly, we want to  
26 talk about the question of certification and votes.  
27 We think that the Act could very well be amended to  
28 provide as we do in any phase of our democratic  
29 society.

30 MR. POLLOCK: Well, let me start with that



1 point. I guess we are talking about pages 25, 26 and  
2 27 of your brief. Although we have the benefit of  
3 your representation before us in the brief, I don't  
4 think that our terms of reference really extend that  
5 far back into the certification procedures. Now, if  
6 they do, then we certainly have your representation  
7 on it, but I think the question of certification and  
8 the vote and the successor employee section I think  
9 are reaching a little too far afield.

10 MR. HEARN: All right, we will be  
11 governed by your suggestion in this area. Then the  
12 only remaining thing we have, sir, is the question of  
13 this matter of the chairman on arbitration and  
14 conciliation boards and I think we have in the very  
15 short time that we have been questioning and discussing  
16 with each other this question, I think we have touched  
17 on the points that we have wanted to make. There is  
18 there reference to the article which appeared in the  
19 newspapers while this brief was under consideration,  
20 the question of the prohibition of judges now because  
21 of the new Judges' Act and we said our piece as to  
22 ~~what we~~ felt should be done in this direction. We  
23 have indicated to you our traditional position that  
24 we do realize that there is a lack of people for this  
25 work on conciliation and arbitration boards and we  
26 have made specific suggestions in pages 32 through 33  
27 and 34 of how this could be corrected and how our  
28 traditional position has been in this area. The  
29 remaining two or three pages of the brief deal with  
30



1 the summary of our submission and the question of  
2 injunctions, and being an organization that has not  
3 been faced with the injunction issue, we cannot  
4 in reality make a great presentation on the question  
5 of injunctions. We feel that if injunctions are  
6 used, then they should not be used unless both sides  
10 7 have a right to be heard before the injunction is  
8 granted and for this reason we say that the ex parte  
9 injunction should be abolished, for the reason that  
10 we believe it weighs heavy upon any judge to grant  
11 an injunction without having heard both sides and we  
12 think it is unnecessary, that if damage is going to be  
13 done or is being done that surely the parties can  
14 be brought before the bar of justice and made to  
15 state their case in sufficient time that they can be  
16 heard and a decision rendered without the necessity  
17 of galloping into a one-sided decision without the  
18 benefit of representation from the other side. And  
19 I think basically that is our submission on the  
20 question of injunctions.

21 MR. POLLOCK: I think that the only  
22 matter that may be outstanding and it is only out-  
23 standing in the sense that some of the details  
24 probably are not disclosed in this type of form.  
25 Perhaps our research people of the Commission might  
26 contact your people with a view to obtaining greater  
27 details about the particular settlements that we  
28 discussed this morning.

29 MR. HEARN: Yes, sir. If the research  
30 people of this Commission have any desire for copies



1 of arbitration awards or specific dates of certifica-  
2 tion and dates of movements through the channels to  
3 arbitration, we would be most pleased to cooperate  
4 with this Commission and supply any and all necessary  
5 information.

6 MR. POLLOCK: We would certainly appreciate  
7 that.

8 THE COMMISSIONER: Mr. Hearn, there is  
9 one question that has been brought up and perhaps you  
10 may have something to say about it. That is the  
11 internationalization of unions. We have had one  
12 union complaining that they were really being  
13 oppressed by an international union. Have you any  
14 views that you would care to express on this question  
15 of international organizations, rather than national?

16 MR. POLLOCK: I suppose you find yourself  
17 in the difficult position of being the international  
18 vice-president of this union.

19 MR. HEARN: No, sir. Let me divorce myself  
20 in that statement. I would like to believe and I  
21 hope that my actions in the labour movement have been  
22 such that I have not been governed by a selfish  
23 interest of our own organization or my own personal  
24 position. I would not want to think that I am using  
25 the platform of an international union to foster my  
26 own selfish interests in the labour movement, and I  
27 would like to be divorced from that kind of a  
28 suggestion. As far as my experience has been, Mr.  
29 Commissioner, and I guess I am among the younger  
30 fellows who enjoy a long service in the labour movement



1 in this province, it has been my experience in having  
2 knowledgeable or a personal knowledge of the functions  
3 of the building trades, the service industry, and  
4 in the main, the old AF of L traditional international  
5 unions. I have not found in the broad analysis of  
6 the labour field any great interference from the  
7 headquarters of international unions in the affairs  
8 of their Canadian local unions. Now, I know from  
9 personal experience that there are some unions, the  
10 printing trades is one and I would hope that when I  
11 am naming various trades that the press would be  
12 good enough not to spot me at this point.

13 MR. POLLOCK: They left before you  
14 started to speak.

15 MR. HEARN: That is fine. But the  
16 printing trades is one where the strike at the three  
17 Toronto newspapers has been traditional of the  
18 interference of international unions. The operating  
19 engineers is another example of where they cannot  
20 even complete a collective agreement without the  
21 signature of or the approval of their international  
22 office. But these, sir, are a minority group of  
23 trade unions and certainly the vast majority of  
24 Canadian unions enjoy a pretty high degree of self-  
25 autonomy. We, for example, are completely autonomous  
26 in Canada.

27 THE COMMISSIONER: You can take any  
28 action you please?

29 MR. HEARN: We can take any action we  
30 please excepting the expenditure of the international



1 money deposited in Canada, we can't dispose of that.  
2 That must be done by the international, but any other  
3 action we do not have to go to the international.  
4 We go under our constitution for strike sanction  
5 and that is to prevent wildcatting and things of  
6 this nature to maintain some form of discipline at  
7 locals so they can't get out of hand. They must seek  
8 strike sanction and strike sanction has never been  
9 denied; in any case, in the 20 years I have been  
10 associated with this organization.

11 THE COMMISSIONER: I suppose in strikes  
12 that you get benefits from the United States.

13 MR. HEARN: Yes, sir, strike pay and  
14 things of this nature which has to be applied for,  
15 in order to make application it requires the sanction  
16 of the general president for the strike.

17 THE COMMISSIONER: Well, here we are  
18 just speculating in dealing with ideas. What do you  
19 think of this declaration of Mr. Reuther for whom I  
20 have a high respect, by the way, that he is insisting  
21 now on the settlement in the United States of his  
22 contract with General Motors, that they extend that  
23 to Canada, that unless the settlement in Canada is  
24 satisfactory to those in the United States that they  
25 won't settle in the United States. What do you think  
26 of that?

27 MR. HEARN: To me, sir, this is a  
28 difficult question to answer for the reason that if  
29 you look at the economy that you are speaking of  
30 earlier this morning, and if we realize that today



*Nethercut & Young**Toronto, Ontario*

1 we are manufacturing cars in Windsor and selling them  
2 in the United States for 20 or 25% less than that same  
3 manufacturer of cars in Windsor is selling for  
4 across Canada, and in the other direction cars that  
5 are made in Detroit or Cleveland or other cities in  
6 the United States are being brought into Canada and  
7 sold at this higher markup, if there is to be this  
8 very close interlocking and exchange of vehicles it  
9 is pretty difficult to understand why a man making  
10 a Mercury car in Detroit is worth any more than a  
11 man making a Ford in Windsor, or a man in Detroit  
12 that is assembling a Chrysler car which I happen to  
13 be waiting for by order at the moment, should be  
14 worth any more than the man that is taking the  
15 components and assembling the Plymouth car on a  
16 Windsor line and probably the day they cross the  
17 border they will cross each other on the way.

18 THE COMMISSIONER: But I don't think  
19 that question evolves at all. You have to go beyond  
20 the mere price of cars or question of wages. You  
21 have here something that may develop into an  
22 objectionable action on the part of unions in the  
23 United States. They are dictating today wages. They  
24 may come out tomorrow and dictate something else and  
25 the question really is one of the internal government  
26 of Canada.

27 MR. HEARN: Now I follow the question.  
28 The influence of the policy rather than the question  
29 of the economics is what you are aiming at. No, I  
30 believe this and I think as a Canadian and also as an



1 officer of an international union, I would be highly  
2 obliged to reconsider my position as an officer of  
3 this international union or any other international  
4 union that I may work for if that international union  
5 is going to dictate to me as a citizen of Canada  
6 a separate country entirely, what I should be doing  
7 on policy matters in Canada. I think I would have to  
8 consider my position of probably resignation because  
9 of my high self-respect for the country in which I  
10 reside and live and carry my citizenship and I am  
11 proud of it.

12 THE COMMISSIONER: I think that is a very  
13 satisfactory answer to my question.

14 MR. HEARN: I think there should be no  
15 interference on policy matters.

16 THE COMMISSIONER: And your union  
17 exemplifies that.

18 MR. HEARN: That is right.

19 MR. POLLOCK: I just have one more question  
20 and it might be too difficult to even answer. Your  
21 organization is devoted to the service industry  
22 largely which has been one that until recently has  
23 been difficult to organize and I am sure you are  
24 probably still finding difficulties in organizing it.  
25 I wonder what the reasons are. On the basis of your  
26 experience, why does the service industry and, I  
27 suppose, the white-collar industry as well, why does  
28 that not lend itself to organization as easily as  
29 the other types?

30 MR. HEARN: Well, there are two or three



1 basic points and I am now speaking of the service  
2 industry. I have no knowledge of the white-collar  
3 industry, so I can't speak with authority on that.  
4 In the service industry I think you would find that  
5 perhaps one of the major bases of barrier here, if not  
6 the barrier, is the fact that the great preponderance  
7 of people in the service industry have passed the  
8 prime of life. They are within this feeling of age  
9 prohibits ability to seek employment. They have a job  
10 in the service industry which they have been able to  
11 pick up and they have worked at other industries  
12 perhaps in earlier years, that is, those who haven't  
13 been frozen in a service for the last 25 years, they  
14 are coming to the end of the road with perhaps five  
15 years or eight years or ten years towards retirement.  
16 And they feel a security even in a very low-wage area,  
17 and while they can't really live on that low wage,  
18 to them there is some self-respect that they can  
19 work rather than accept relief or unemployment  
20 insurance, they can work and this is a self-respect  
21 on their part. So they find this job in a service  
22 industry. They are old or they are getting old and  
23 they have lost the fight and they just don't want to  
24 stand up and be counted. This is a great barrier in  
25 the service industry to its organizational feature.  
26 There is a language barrier in the service industry  
27 and it is traditional now in the last eight or ten  
28 years that the service industry is flooded with new  
29 immigrants. They are coming to Canada and they are  
30 taking jobs as janitors in hospitals and office



1 buildings and other areas of this nature like cleaning  
2 ladies and people of this calibre. They are seeking  
3 these jobs for no other reason than to make enough  
4 money to live in a room and provide themselves with  
5 food and clothing and to get to school long enough to  
6 speak English in a fluent fashion and then to move  
7 on. And they use it as a stepping stone. This is  
8 another major reason. Now, if you are coming  
9 specifically to the hospitals, the big barrier has  
10 been the indoctrination of the care of the patient and  
11 the loyalty that rests between the patient and the  
12 staff.

13 Then there is the

14 strike situation which I believe as an individual,  
15 and I am speaking for myself now, rather than the  
16 group I represent at the moment, but I believe this  
17 speaks for itself in the degree of organization that  
18 has taken place in the last few years. Because they  
19 have realized they can get this help without the  
20 necessity of destroying the loyalty between the  
21 patient and the employee. I think these are three of  
22 the major factors in the service industry.

23 MR. POLLOCK: Thank you very much, Mr.  
24 Hearn and gentlemen, for appearing this morning.  
25 The Commission is adjourned until 10 o'clock Monday  
26 morning.

27  
28  
29 ---Adjournment.  
30











BINDING SECT. OCT 20 1967

